



**Dockerill v Chilcott & Chilcott v Dockerill**  
Royal Court  
22<sup>nd</sup> December 2017

**JUDGMENT**  
**57/2017**

Application to remove a caveat lodged at the Ecclesiastical Court Registry against a will of realty and an application to be appointed executor of the deceased estate.

**IN THE ROYAL COURT OF GUERNSEY**

**Civil Nos 2081 and 2089**

**BETWEEN**

**JANICE MARGARET DOCKERILL**

**Applicant**

**-and-**

**STEPHEN PAUL CHILCOTT**

**Respondent**

**AND BETWEEN**

**STEPHEN PAUL CHILCOTT**

**Applicant**

**-and-**

**JANICE MARGARET DOCKERILL**

**Respondent**

**Hearing dates: 28<sup>th</sup> and 29<sup>th</sup> November 2017**

**Judgment handed down 22<sup>nd</sup> December 2017**

**Before: Her Hon Hazel Marshall QC, Lieutenant Bailiff,  
Ms Claire Le Pelley, Terry John Ferbrache and Alan Boyle Esquires, Jurats**

**Counsel for Mrs Dockerill  
Mr Stephen Chilcott**

**Advocate Christian Hay  
in person**

**Cases, texts and legislation referred to:**

*Ecclesiastical Court (Jurisdiction) (Bailiwick of Guernsey) Law 1994 ss 2 and 3*  
*Royal Court (Reform) (Guernsey) Law 2008, ss 14 and 16*  
*Royal Court Civil Rules 2008, r 90*

*Administration of Estates Act 1925 s 7*

*Halsbury's Laws of England 5<sup>th</sup> Edition Volume 103 para 637*

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## JUDGMENT

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### The applications and the parties

1. There are two related applications before the court, as to which the respective parties are Mrs Janice Dockerill (“Mrs Dockerill”) and Mr Stephen Chilcott (“Mr Chilcott”).
2. Mrs Dockerill (née Brockway) is the daughter of the late Mrs Margaret Chilcott, (formerly Brockway, née Renton: “Mrs Chilcott”), who died on 13th December 2016. Mrs Chilcott left a will of personalty dated 15th August 2011 (amended by codicil to add realty on 14<sup>th</sup> January 2013) in which Mrs Dockerill is named as her executrix and is also her main beneficiary.
3. Mrs Chilcott had been the third wife of the late Mr Paul Edward Chilcott, (“Paul Chilcott”). Mr Chilcott the party to this application is the son of Paul Chilcott by his first marriage.
4. On 11<sup>th</sup> January 2017 Mr Chilcott lodged a caveat at the Ecclesiastical Court Registry against the estate of Mrs Margaret Chilcott.
5. On 17<sup>th</sup> February 2017 Mrs Dockerill commenced the first of these two applications (“**the Caveat Application**”) to remove the caveat. Mr Chilcott resists that application.
6. When Paul Chilcott died on 28<sup>th</sup> August 2008, he had left a will of personalty dated 7<sup>th</sup> August 2008 by which he appointed Mrs Chilcott to be his executrix. He made certain bequests and made Mrs Chilcott and Mr Chilcott the residuary beneficiaries of his personal estate in equal shares. The will could, of course, take effect only insofar as consistent with the Guernsey laws of légitime which then applied, and under which one third of Mr Chilcott’s personal estate would go to his surviving spouse, one third to Mr Chilcott his only son, and only the remaining third could be freely disposed of by him by will.
7. Mrs Chilcott was granted probate of the will of Paul Chilcott on 12 September 2008. At the time of her death, she had not obtained any formal discharge of her functions as such executrix, although Advocate Hay, appearing for Mrs Dockerill, argues that in practical terms, and in the events which have actually happened, the administration of Paul Chilcott’s estate has effectively been completed.
8. On 21st June 2017 Mr Chilcott made the second application of these two applications (“**the Executorship application**”). As he was acting in person, his application was formally considered by the Court under Rule 90 of the *Royal Court Civil Rules 2008*. By this application, Mr Chilcott has applied to this Court to be appointed executor of Paul Chilcott’s estate. (More accurately, in present circumstances, this would be a grant of letters of administration with the will annexed; it is, however, referred to as “executorship” for convenience.) By order of the Bailiff made on 21<sup>st</sup> July 2017, the application is being treated as an application for directions to the Ecclesiastical Court, pursuant to Sections 2 and 3 of the *Ecclesiastical Court (Jurisdiction) (Bailiwick of Guernsey) Law 1994*. Those sections have the effect of transferring to the Royal Court jurisdiction over the resolution of any dispute of fact or law in respect of which a caveat is in force in the Ecclesiastical Court.

9. Mrs Dockerill opposes Mr Chilcott's application, and submits that, as the executrix of her mother who was the executrix of Paul Chilcott's estate, she should complete the administration of the estate of Paul Chilcott insofar as anything remains to be done.
10. Mr Chilcott opposes this and maintains his application to be appointed executor of his father's estate, essentially on two grounds. First, he says that he has collected evidence, and has good reason to believe, that Mrs Chilcott was complicit in diverting significant assets from his father or his father's estate for her own benefit, which activities ought to be investigated but which Mrs Dockerill plainly has no reason or incentive to pursue. Second he says that it is only if he (Mr Chilcott) is formally recognised as the representative of his father's estate that third parties who are in possession of information which will support, corroborate and prove the matters mentioned above will provide such information to him; otherwise, those whom he has approached have refused to co-operate with him without a court order. Justice would thereby, he says, be thwarted. In addition, he maintains that, as his father's only child and son, he has a moral right to be appointed his executor.

### **Procedural matters**

11. This is a decision of the Court and this written judgment has been prepared in accordance with Section 16(5) of the *Royal Court (Reform) (Guernsey) Law 2008*. Pursuant to Section 14 (2) of that Law, the Lt-Bailiff did not sum up to the Jurats in open court but retired with the Jurats.
12. She gave general directions to the Jurats, first, to remind them that their respective roles were that the Lt-Bailiff is the sole judge of matters of law and procedure and the Jurats must follow her directions on such matters, but that the Jurats are the sole judges of questions of fact. She directed the Jurats that, insofar as she might herself appear to express any views on the facts when guiding their deliberations, the Jurats should ignore these and form their own independent judgment. Such further, more specific, directions as the Lt-Bailiff gave to the Jurats on particular matters are referred to later.
13. Where, therefore, this judgment sets out holdings of law and the reasons for these they are the holdings and reasons of the Lt-Bailiff. Where it sets out findings of fact and reasons for these, they are the unanimous findings and reasons of the Jurats.

### **The legal framework**

#### **(1) The caveat application**

14. The purpose of lodging a caveat at the Registry is to prevent the grant of probate or letters of administration which should not happen, or as to which there is a dispute. There is very little decided law about this process in Guernsey, and Advocate Hay submits (and the Lt Bailiff accepts) that it would be appropriate for Guernsey to take guidance from the English processes and principles in this regard, as they appear to be of a similar structure. He has therefore cited commentary from Goodman Hewitt & Mason: *Probate Disputes and Remedies*, 3<sup>rd</sup> Edition) as potentially helpful guidance.
15. The Lt-Bailiff accepts that the following principles of law, as submitted by Advocate Hay, are applicable in principle.
16. First, a person lodging a caveat must have a sufficient interest in the estate of the deceased or its administration to justify his doing so. Failing that, the caveat is simply officious and will be readily removed with penalty to the caveator in costs.

17. Second, there are three recognised broad grounds upon which objection can properly be taken to the issuing of a grant of probate. The first is a dispute as to the validity of the relevant will itself. The second is a dispute as to who ought to be the personal representative even in the face of an apparently effective appointment, a dispute generally based on the apparent suitability of the particular appointee in all the circumstances. The third is the situation where a party wishes to cite some other person either to apply for a grant of probate or to elect to renounce such a grant.
18. As to the initial general principle, Advocate Hay submits that Mr Chilcott does not have the necessary *locus standi* to maintain an objection to the grant to Mrs Dockerill of probate of Mrs Chilcott's will because he has no interest in the estate of Mrs Chilcott. Mr Chilcott's evidence and arguments disclose that his concerns are all, at best, to do with his father's estate and its value or its due administration. Indeed, the reasons he has given for maintaining the caveat is that it should remain "*firmly in place*" pending his being provided with a "*satisfactory explanation*" of "*various and highly suspicious circumstances*" surrounding that administration. This, Advocate Hay submits, is not a sufficient basis for lodging or maintaining a caveat in respect of Mrs Chilcott's estate, even in principle. Insofar as there might be claims against Mrs Chilcott, those are claims requiring to be brought against her estate and are not a sufficient reason for interfering with or diverting the due administration of that estate.
19. As to the three potential bases for proper objection to a grant of probate, Advocate Hay submits that Mr Chilcott can make out none of these grounds with regard to Mrs Dockerill and the administration of her mother's estate.
20. The third ground (citation of another party) is not in issue in this case and can be ignored. As to the first ground, Mr Chilcott neither disputes the validity of Mrs Chilcott's will, nor that it purports to appoint Mrs Dockerill as her executrix. This only leaves the second ground and as to this, Advocate Hay argues that Mr Chilcott does not rely on any grounds of unsuitability of Mrs Dockerill to administer her mother's estate, such as "*criminal conduct, irresponsibility with money, mental illness, conflict of interest, or some other reason*" (see Goodman, Hewitt & Mason, above, at para 7.12); once again, his objections are all concerned with Paul Chilcott's estate, and not with who should administer Mrs Chilcott's estate. The caveat has been lodged, he submits, simply in order to bring pressure on Mrs Dockerill with regard to Mr Chilcott's persistent investigations of her mother, pursued belligerently, obsessively and many years after the event, into what he perceives (though this is entirely denied) to have been misdealings by her with his father and his father's rightful property.
21. As already stated, the Lt-Bailiff accepts Advocate Hay's submissions as to the principles of law, set out above. She also agrees that insofar as the matter at issue in these applications is simply the administration of Mrs Chilcott's estate, viewing that in isolation, then there is no answer in point of law to Mrs Dockerill's claim to be appointed executrix of that estate. Mr Chilcott does indeed have no interest in that estate and there is no suggestion of any factor making Mrs Dockerill unsuitable to administer it.
22. However, the matter is complicated because of the interaction between the potential administration of Mrs Chilcott's estate and of the remainder of Paul Chilcott's estate, which arises from the effect of a "chain of representation" which may be recognised in law. By this, if Mrs Dockerill takes an unqualified grant of probate of Mrs Chilcott's estate, she would thereby automatically become also the executrix of Paul Chilcott's estate by operation of law. This, therefore, is the subject matter of the second application to which the Lt-Bailiff now turns.

## **(2) The Executorship application**

23. As already mentioned, Mr Chilcott's application is to be appointed personal representative of the estate of Paul Chilcott. He makes this for the reasons given above, as well as adding that he feels that he has a right to this position simply as his father's only child, which ought to be recognised.
24. However, and on the basis that Mrs Chilcott died before finally concluding her administration of the estate of Paul Chilcott, the custom and practice of the Ecclesiastical Court, (which in this respect has followed the practice of the United Kingdom), is that where an executor dies before completing the administration of a deceased estate, but by his own will appoints an executor of his own estate, the second executor automatically becomes executor of the first estate by devolution of that office upon him/her.
25. This is described as a "chain of representation": see Halsbury's *Laws of England* 5<sup>th</sup> Edition Volume 103 para 637. It applies only to executorships (ie actual appointments as such) and not to other administrators of deceased estates, such as on an intestacy, and it only applies if the first executor has actually taken probate of the first will and dies whilst holding that office. The philosophical justification for the rule is that the appointment of an executor evidences the trust reposed in such executor by the deceased, and that such trust can be viewed as extending through to that executor's choice of his own executor. The chain therefore extends down a line of such appointments as long as it is unbroken.
26. Mrs Dockerill argues that this practice and its effect is, or should be, the law of Guernsey, and that it therefore applies in this case. She argues that she is consequently entitled to, and does, resist Mr Chilcott's application.
27. It is undoubtedly the case that this has been the practice in Guernsey. The Registrar of the Ecclesiastical Court, (Advocate Nicholas Ozanne) appearing at an earlier stage of these proceedings in order to produce papers pursuant to a witness summons, gave evidence to this effect to the Court. However, whether it is (or ought to be) a firm and rigid rule of law, or merely a rule of practice which can be disapplied in appropriate circumstances, and if it is less than a rigid rule of law, what are the tests by which any exception or modification should be made, are questions which are pertinent to this case.
28. It is convenient to record here that the Registrar of the Ecclesiastical Court also informed this court that, as a matter of principle, he could see no practical obstacle to, or difficulty with, a grant of probate to Mrs Chilcott's estate with a limitation that it was confined to the assets of that estate and excluded the assets of Paul Chilcott's estate, such that a separate, and non-conflicting or overlapping, appointment of an executor (administrator) of Paul Chilcott's estate alone would also be possible. His evidence was that as the Ecclesiastical Court would act in accordance with the directions of the Royal Court, and how the Royal Court interpreted the law, then insofar as any such régime were directed, the issue would be only a matter of drafting, and not of substance.
29. If, therefore, this court thought it appropriate, it would be possible for it to give such a direction, and to constitute Mrs Dockerill the executrix of her mother's estate only, whilst appointing Mr Chilcott as administrator of his father's estate, only.
30. Turning back to the legal framework, as regards the rule or practice regarding devolution of the office of executor mentioned above, in English law this appears to have had its origins in the equitable jurisdiction of the Courts of Chancery to supervise the administration of deceased estates. The earliest reported cases on the topic are in the early 1700s. It has, however, been subsequently codified in legislation: see *Administration of Estates Act 1925* s 7.

31. Guernsey has no such legislation and would therefore develop its practice from its own common law principles, being free to mould the detail appropriately to meet the needs of the island and the situation.
32. In the Lt-Bailiff's judgment, whilst there is undoubtedly such a general practice in Guernsey as is described by the Ecclesiastical Registrar, it is properly regarded as a rule of custom and practice, and not as a rigid rule of law. Its real rationale would seem to be convenience, even if this has not proved sufficiently forceful to result in the doctrine applying to mere administrators. If an executor dies without having completed the administration of an estate, then it is plainly more convenient to be able to identify immediately a party with title to complete such administration, rather than have the administration of the first estate fall into a state of limbo. The chain of trust, mentioned above provides some philosophical justification for the practice, but that is rather tenuous. In historic times, it may have had more force, but today, if, for example, a testator has appointed a professional person, such as an advocate, as his executor, but that executor chooses his own executor simply because he is a relative, but with no professional expertise, then an actual chain of trust would be quite fictitious.
33. In most cases the devolution of the office of the executor in law will be non-controversial. However, that does not mean that the practice assumes the status of a rigid rule, nor, in the judgment of the Lt-Bailiff, that it should import a right, or even a presumption of any weight, that the appointed second executor should administer the first estate. This is of importance because of the potentially different test which might have to be applied if there were a dispute as to who should administer the original deceased estate if the first executor dies. If the devolution of the office of executor created a right, or a strong presumption, that the second executor should administer the first estate, then challenging this might require any objector to make out grounds which were the equivalent of grounds for removing an executor or trustee from office. That is a high hurdle, and the Lt-Bailiff judges it to be too high.
34. In the judgment of the Lt-Bailiff, the true position in Guernsey law is, or should be, that where the office of executor of a deceased estate would, by custom and practice, devolve upon the executor's own executor upon his demise, then if there is a dispute as to the appropriateness of this, and another candidate is presented, the choice as to who should be granted letters of administration to the first estate becomes effectively at large. It should be decided on the basis of which of the candidates appears, in all the circumstances of the case, to be more (or most) suitable to be given charge of the administration of the first estate. Looked at another way, insofar as it might ever be said that there was a presumption in favour of the second appointed executor, that presumption would be very readily displaced.
35. The decision as to which of Mrs Dockerill and Mr Chilcott is, in all the circumstances of this case, the more suitable to be granted letters of administration to the estate of Paul Chilcott is ultimately a question of fact. It will consequently be the province of the Jurats to make that decision and the Lt-Bailiff will so advise them.
36. It is convenient to record here, though, that the effect of the legal principle decided above does, in the judgment of the Lt-Bailiff, give Mr Chilcott sufficient *locus standi* to contest the grant of probate of Mrs Chilcott's estate to Mrs Dockerill and therefore to have lodged his caveat. This is because, if that grant were to take place without qualification, it would automatically carry with it the executorship of Paul Chilcott's estate, and in the Lt-Bailiff's judgment, this effect, and Mr Chilcott's potential and apparent interest in that aspect, gives Mr Chilcott sufficient interest in the matter to be entitled to lodge a caveat at the Ecclesiastical Registry, in order to prevent it happening without consideration.
37. That is no answer, though, to Mrs Dockerill's claim to be constituted executrix of Mrs Chilcott's estate. Therefore, whatever the outcome of Mr Chilcott's application, the court

will direct that the caveat lodged by Mr Chilcott be removed from the Register. Dependent on the Jurats' decision on Mr Chilcott's own application, it will then direct, either that Mrs Dockerill be given an unqualified grant of probate to Mrs Chilcott's estate (which will therefore carry with it the right to administer the remains of the estate of Paul Chilcott) or that Mrs Dockerill be granted probate limited to the assets comprised in Mrs Chilcott's estate, and that a separate grant of letters of administration to the estate of Paul Chilcott be made to Mr Chilcott.

### **The Executorship application - Factual background**

38. It is now appropriate to set out something more of the history of the matter, which is unfortunately somewhat involved and lengthy. It is important to note here that in the present applications the court is not concerned with resolving disputes of fact between the parties, so much as considering what effect the existence of those disputes should have on the relatively narrow subject matter of the application, namely: who should now be granted representation to the estate of Paul Chilcott? Something of the history has to be recounted, however, as it forms part of the circumstantial background which is material to the ultimate decision.

#### The family

39. As already mentioned, Mr Chilcott is the only son of Paul Chilcott. His mother, Paul Chilcott's first wife, died in 1981. Mr Chilcott was then living in the UK, but says that he came to live in Guernsey for about four years to support his father. Paul Chilcott subsequently, in about 1984, married his second wife, Muriel Marquis, who already had two children, Amanda and John, by a former marriage. Mr Chilcott says that he got on well with his step-siblings, and they with his father. Mr Chilcott himself also married, and had a son, Alistair, of whom (he says) his father was very proud.

40. Muriel Chilcott died in 2000. Mr Chilcott has produced copies of letters from Paul Chilcott to Amanda and John, shortly afterwards, demonstrating his father's great grief, and his affection for Muriel, and also for Amanda and John as members of his extended or "adoptive" family.

41. However, in December 2005 Paul Chilcott married Margaret Brockway, whom he appears to have met, or become more closely acquainted with, in the interim. She had two children from her previous marriage, namely Mrs Dockerill and Mr Mark Brockway. In brief, Mr Chilcott asserts that Mrs Chilcott then took steps to destroy what had previously been a close and happy relationship between his step-siblings, particularly Amanda, and his father, and she effectively drove Amanda away. He says that she was also controlling and domineering, and she inhibited and prevented even Mr Chilcott and his family from having close relations with his father. In his evidence he has described incidents of such alleged behaviour by Mrs Chilcott, and says that this is supported by his knowledge of gossip, and references by others (including the local rector) to discreditable or unpleasant conduct on her part, which he also alludes to.

42. Unsurprisingly, Mrs Dockerill accepts none of this. A prominent feature of this case has, though, been the huge animosity which Mr Chilcott feels towards Mrs Chilcott, and which is then extended to Mrs Dockerill - and up to a point to her brother - by association. Mr Chilcott is firmly convinced that Mrs Chilcott set about wheedling herself into his father's affections after the death of Muriel Chilcott, and that she subsequently manipulated him so as to obtain, largely for herself but also for the benefit of her own family and in particular Mrs Dockerill, and to the virtual exclusion of himself and his father's "adoptive" second family, most of his father's accumulated wealth. (In fact, insofar as anything even remained

expressly distributed to any of those persons, Mr Chilcott suggests that this was a deliberate contrivance procured by Mrs Chilcott to reduce the suspicion which a more extreme total diversion of assets to the new wife and family would arouse.) Mr Chilcott is convinced that Mrs Chilcott did all this by unduly influencing and overbearing his father, by taking advantage of his father's failing mental faculties (which he is convinced of, citing the fact that his father had been subject, he says, to transient ischemic attacks or "tia's" since around 1983), and even by defrauding his father outright.

43. Paul Chilcott had been quite a wealthy man, but in the early 2000s he was the victim of a fraud by his then accountant or financial adviser, one Gerry Smith, who had operated in Jersey and had a connection with a financial management firm with the name "Quorum". Mr Smith was successfully prosecuted in Jersey for defrauding clients including Paul Chilcott and in 2002 he was, we were told, sentenced to five years imprisonment. Paul Chilcott then pursued a civil claim for damages against Mr Smith in about 2003, but he settled this for a payment of £1.5M, in 2007, although Mr Chilcott believes that he was in fact defrauded of much more.

#### The Will and the Estate

44. The relevant will of Paul Chilcott ("the Will") was executed on 7<sup>th</sup> August 2008, whilst he was still living at his home, but was by now on palliative care including morphine, being terminally ill with lung cancer. This was some three weeks before he was transferred to Les Bourgs Hospice, where he died soon after.
45. The Will was only as to personal estate, as Paul Chilcott owned no real property directly. He appointed Mrs Chilcott to be his executrix, but failing her for any reason, he appointed jointly two Advocates (Advocate Patrick Palmer and Advocate Jason Green). He declared that all goods of any description at his home, *Les Pres de Jerbourg*, ("*Les Pres*" for short), apart from any otherwise specifically mentioned, and any motor vehicles, were owned by him and Mrs Chilcott jointly, and stated expressly that these would therefore become hers absolutely on his death. Subject to payment of his debts,
- (1) he devised his stamp collection to Mr Chilcott,
  - (2) he declared that all items of jewellery at his home were owned by Mrs Chilcott (thus including jewellery previously belonging to Mr Chilcott's own mother or to Muriel, which Mr Chilcott finds extraordinary),
  - (3) he left half of his shares in the company which owned his home at *Les Pres* to Mrs Chilcott, with the wish that she should be permitted to reside there rent free as long as she should wish and be permitted to carry out any alterations which she might see fit thereto,
  - (4) he left £25,000 to each of Mrs Dockerill and John Marquis (thus cutting out Amanda, but equally, conferring no benefit on Janice's brother, Mark) and finally
  - (5) he left the "rest residue and remainder" of his estate to Mrs Chilcott and to Mr Chilcott in equal shares.
46. Shortly before his death and within a few days either way of the execution of the will, Mr Chilcott also transferred his bank accounts into the joint names of himself and Mrs Chilcott and also assigned various investment bonds or life insurance policies into their joint names, or made Mrs Chilcott sole beneficiary of them (the precise detail does not matter). These assets all thus became hers on his death, and did not fall into the estate which passed under inheritance laws or the Will. In the event, therefore, Paul Chilcott's estate consisted only of

three items. These were the stamp collection, the shares in Les Pres de Jerbourg Limited and shares in a company known as Adbikes Limited, which appears to have been a business venture of John Marquis. These latter shares appear to have had very little value – at least this is what was ultimately asserted by Mr Chilcott and Mr Marquis - but their value was never, apparently, realised or seriously pursued on any basis.

47. Mr Chilcott views the execution of the Will as being highly suspicious, having regard to its timing, its contents - so inconsistent with his view of his father's relations with other members of his extended family - and Mr Chilcott's own assessment of his father's failing mental state at the time. He points out that the Will was made only three weeks before his father's death, when he was frail and terminally ill with lung cancer, and at a time after he and Mr Marquis, who had been visiting, had left and gone back to the UK. He is adamant that his father's mental faculties were then failing.
48. He is also sure that evidence of this will be seen from his father's medical notes, of which he had, until very recently, been supplied only with copies with major redactions. This was a matter which greatly aroused his suspicion. He observed from these notes that in January 2006 his father was apparently trying to get a record of one of his tia's expunged from his medical notes. The letter of 4<sup>th</sup> January 2006 to his doctor refers to the record having "no credibility[sic]" in a court of law, which Mr Chilcott says is suspicious because no legal proceedings were then in contemplation. He attributes this letter to Mrs Chilcott, and to her trying to conceal evidence of his father's failing mental faculties for her own purposes. He is also, and consistently with this, sure that it was Mrs Chilcott who redacted the medical notes in order to conceal evidence of his father's mental state. He has maintained this position even after being provided with an explanation from the Rohais Medical Practice that these redactions were made by them, and were made in order to comply with a time period specified in a lawyers' request for such notes, and also evidence that the redacted notes were provided directly through lawyers at the time, and that Mrs Chilcott had had no hand in collecting them.

#### The Will reading

49. After Paul Chilcott's death on 27<sup>th</sup> August 2008 his Will was apparently read formally on 1<sup>st</sup> September 2008 at the office of Advocate Patrick Palmer, Paul Chilcott's long time family lawyer. Mr Chilcott says that apart from himself, Mrs Chilcott and Advocate Palmer, there were two other persons present, namely Mr Chivers his father's bank manager at HSBC and his assistant Mr Povey. He says that, in front of him, Advocate Palmer asked Mr Povey for a figure of "cash at bank" for the estate, and that, from paperwork which he had with him, Mr Povey gave a figure of £2.6M, which Mr Chilcott remembers clearly. However, both Mr Chivers and Mr Povey, who were later traced, in 2015 and interviewed by private investigators employed by Mr Chilcott, deny that they were at the Will reading at all, and Advocate Palmer has also stated that there were no other persons apart from Mrs Chilcott, Mr Chilcott and himself at the meeting, as he recollects it. However, because Mr Chilcott, remembers this meeting and the figure given very clearly, he considers that these three persons are all "lying", and he has therefore demanded an explanation for this.
50. He has in fact expanded this demand into a forceful and strongly worded criticism of Advocate Palmer's drafting of the Will, of his not having notes of either the Will signing or the Will reading meetings, and of his not having ensured the presence of a medical expert at the Will signing, all of which, he considers, was disgracefully lax and makes Advocate Palmer responsible for the actions of a "very devious psychopathic predatory fraudster", (ie Mrs Chilcott).
51. Advocate Palmer has subsequently set out his account of the Will signing meeting and his views of Paul Chilcott's capacity in that context, and it also appears (Mr Chilcott refers to it)

that a Mr Henry Goodeve, a witness of the Will, did prepare a letter confirming Paul Chilcott's sound mental state at the time of the Will signing. Mr Chilcott, however, sees this as suspicious, on the basis that it must show that there actually was reason to doubt his father's mental state. He apparently perceives no inconsistency between this opinion and his criticism of Advocate Palmer.

#### Mrs Chilcott is granted probate of the Will

52. Mrs Chilcott was granted probate of Mr Chilcott's will on 12<sup>th</sup> September 2008. To obtain this she had to declare the value of the estate to the Ecclesiastical Court and pay the fee which is calculated on the value of the estate. Mr Chilcott has always been suspicious about the declared value of the estate. It appears that it was originally provisionally declared at £1.5M, but after the Registrar chased for a final valuation, it was ultimately declared, about a year later, at a value of £3,620,383.84.
53. It is not very clear, though, what Mr Chilcott says should be made of this. His case originally seemed to be that Mrs Chilcott had under-declared the assets in the estate, and that this was the explanation for her later alleged receipt and disposition of unexplained (as he saw it) large sums of money emanating from persons or entities associated with the fraudster Mr Smith which payments and connections Mr Chilcott had discovered from the reports of private investigators whom he had engaged later.
54. However, his rather more repeated complaint in this area has been directed at a consequent lack of available information to him, complaining that Mrs Chilcott never submitted accounts of the assets or her administration of Mr Chilcott's estate to the Ecclesiastical Court, and indeed that the Registrar of that Court was lax and grossly at fault for not requiring her to do. Mr Chilcott perceives such accounts as being material which would help support his thesis that Mrs Chilcott had under-declared the estate of Paul Chilcott or otherwise defrauded him or the estate.
55. The original complaint thus metamorphosed into one against the Registrar. At the original hearing of these applications in October 2017 (which was adjourned because Mr Chilcott did not attend, citing ill-health and transport difficulties, but of which the court supplied him with a transcript) the Registrar explained to the court, that whilst it was his function to take an oath from a prospective executor that the executor would provide accounts when called upon, there was no duty on the Registrar himself to call for accounts of the estate or its administration, either for public or private purposes. He would use his power to require compliance with the executor's oath to provide accounts if necessary, but this would be only if he were requested to do so by someone with an interest in the estate. No such request had ever been made of him in this case until after the death of Mrs Chilcott, which was, of course, too late.
56. In fact, the explanation for the change in the stated value of the estate was given by Mrs Dockerill, and supported by an affidavit from a clerk (Ms Rose Ogier) in the firm of Collas Crill, who had been dealing with the matter at the time. Regrettably, her evidence was obtained only rather late in the day, a factor which Mr Chilcott saw as forensic gamesmanship by Mrs Dockerill, but the Lt-Bailiff did not think it right to exclude the evidence, and Mr Chilcott, no doubt because he has always wanted to have as much information as possible, did not object to its admission in evidence.
57. The explanation given was that Mrs Chilcott had initially given an estimated value of the assets in the estate, which comprised, effectively, the estimated value of the house, but that she had subsequently thought it right to add the minimal value of the stamp collection (£1,800), and the value of the joint investments and bank accounts (of approximately £2.1M), even though these therefore did not strictly form part of the estate of Paul Chilcott. Mr Chilcott suggests that this is an extraordinary and incredible explanation – not least because it

incurred a further fee of £7,455 – and it might indeed be thought somewhat contrary to human nature. However, no further light was shed on this matter. It remains the case, therefore, that the ultimate value of Mr Chilcott’s estate was declared by Mrs Chilcott to be some £3.6M, and that cash or realisable assets apparently constituted some £2.1M of this declaration, albeit that it may have gone to Mrs Chilcott by right of survivorship.

#### The effect of the Will

58. At the time of Paul Chilcott’s death, the inheritance laws of Guernsey provided that personal estate must be distributed on death, as to one third to a surviving spouse, as to one third to the deceased’s legitimate children and that only the remaining one third might be distributed freely according to the deceased’s will. It will be immediately apparent, therefore, that the dispositions effected by Paul Chilcott’s Will could not be effected expressly as drafted but would have to be adjusted to take into account the requirements of *légitime*.

#### Administration of the Estate

59. Following the grant of probate, Mrs Chilcott paid the pecuniary legacies bequeathed to Mrs Dockerill and Mr Marquis out of her own funds; she of course now owned outright the whole of the bank accounts and other readily realisable and jointly owned financial assets through her right of survivorship.

60. She also, and similarly, paid sums totaling £175,000 to Mr Chilcott. There appears to have been a dispute as to whether these, or part of them, were paid supposedly on account of his entitlement to *légitime* and other inheritance, or were a loan, but that does not matter for present purposes.

61. The stamp collection was valued for probate purposes at £1,800 and Mrs Chilcott certainly gave to Mr Chilcott a collection of stamps after his father’s death. She then asked to purchase back from him a particular first day cover, for £500. Mr Chilcott took the remaining stamps and sold them through Stanley Gibbons, in London. He says that he in fact sold the stamps which he was given for significantly more than their total probate valuation, although he either could not or would not tell the court the actual figure. He also said that he had sold two of the stamps individually for prices which belied the £1,800 valuation of the whole collection, as also did Mrs Chilcott’s purchase of one item for £500. He has subsequently contested that Mrs Chilcott in fact gave him the entire collection, as mentioned later, but at the time, correspondence suggests that, whilst he may have been somewhat disappointed with what the stamps fetched, he saw nothing to raise any queries about.

62. As regards *Les Pres*, Mrs Chilcott remained living in the house, and proceeded to do so for several years. She had in fact transferred her own house in St Martins to Mrs Dockerill in August 2008, very shortly before Mr Paul Chilcott’s death, for a mere £18,000, but Mr Chilcott did not know this at the time. Mr Chilcott says that the intention was that Mrs Chilcott should remain at *Les Pres* only long enough to downsize into a suitable smaller property, so that *Les Pres* could be sold and its proceeds divided in accordance with Guernsey law and the Will. However, it was not until 2012 that Mrs Chilcott purchased a house called Rosevale, which was to be refurbished for her to move into, and she did not, even then, proceed with any great dispatch about doing so.

63. However, for these first few years, Mr Chilcott says that he simply waited, patiently. But as the period of six years from his father’s death approached, he decided to carry out investigations and take legal advice with regard to the validity of his will.

#### The Will proceedings and the instruction of private investigators

64. In 2014 Mr Chilcott consulted Haskins Legal. He did not, though, commence proceedings simply for the due administration of the estate of Paul Chilcott. On 20<sup>th</sup> August 2014, having persuaded Mr Marquis to join with him, Mr Chilcott launched proceedings against Mrs Chilcott claiming to set aside the Will on the grounds of Paul Chilcott's alleged lack of capacity, alternatively want of knowledge and approval of its contents, alternatively its being the product of undue influence by Mrs Chilcott. The Cause asked the court to declare that Paul Chilcott had died intestate and that his estate should be distributed in accordance with the applicable law on intestacy but it included a further alternative plea that if the court should find that the Will was valid, it should order Mrs Chilcott to distribute the estate in accordance with its terms and the applicable law, ie, for due administration.
65. Defences in that action were tabled on 20<sup>th</sup> November 2014. Mrs Chilcott instructed the firm of Collas Crill, who now act for Mrs Dockerill. These denied the various factual allegations of incapacity, want of knowledge and undue influence. They explained the circumstances of the making of the Will, but also counterclaimed that if the Will were invalid, there was a virtually identical previous will of 10<sup>th</sup> April 2007, that is, after Paul Chilcott's marriage to Mrs Chilcott, which should be upheld as being the true last will of Paul Chilcott. The differences were only the absence of the two pecuniary legacies to Mrs Dockerill and Mr Marquis and the expressed wish that Mrs Chilcott should be able to continue living rent free at *Les Pres*. The existence of this earlier will does not seem to have been known to Mr Chilcott previously. It would plainly have cast serious doubt on the value of upsetting the 2008 Will.
66. In early 2015 Mr Chilcott changed advocates and instructed Mourant Ozannes in place of Haskins Legal. He also engaged a private investigator to find out more "background information" and it was through this investigator that he discovered that Mrs Chilcott had sold her house in St Martins, worth an estimated £400,000, to Mrs Dockerill for a mere £18,000 on 12<sup>th</sup> August 2008, shortly after the signature of the Will expressing the wish that she should be permitted to continue to live at *Les Pres*. With anger and suspicion further aroused, Mr Chilcott then decided to employ a firm of investigators who specialised in financial investigations to investigate his father's finances. The first report from this firm, obtained in March 2015, raised his suspicions yet more, because the investigator said that he had not been able to trace any receipt by his father of the £1.5M settlement monies from the fraud case in 2006/7. Mr Chilcott therefore decided to commission further investigations. (It should be noted, however, that later information did in fact, reveal a sum in excess of £1.4M being paid in to a bank account owned by Paul Chilcott, in September 2007. The original claim by Mr Chilcott, that this sum of £1.5M formed part of his father's estate and he was entitled to demand "clear evidence" of where that money "now resides" has now, therefore, fallen by the wayside.) The upshot of these further investigations is referred to later.
67. In the meantime, the Will proceedings progressed through their interlocutory stages, and on 8<sup>th</sup> May 2015, Judge Finch ordered Mrs Chilcott, in her capacity as executrix of the estate of Paul Chilcott, to provide certain information and documents to Mr Chilcott and Mr Marquis as beneficiaries of the estate. These were particulars with regard (obviously) to the extent and value of Paul Chilcott's estate, details of how it had been distributed since the death of Paul Chilcott and accounts in relation to the company *Les Pres de Jerbourg Limited*.
68. On 22<sup>nd</sup> May 2015, Collas Crill wrote a detailed response to Mourant Ozannes in intended compliance with this order. Mr Chilcott has continued to complain, subsequently, that the order of Judge Finch was never complied with (in his view) and that this has been a contempt of court. That, however, is disputed. Advocate Hay provided this court with an account of the correspondence between advocates (Mr Chilcott was then represented) following this matter, dealing with questions raised, and he points out that no complaint of non-compliance with this order, nor any further request to the court for specific discovery of documents, was subsequently made by Mr Chilcott's advocates during the currency of the proceedings.

69. Mr Chilcott continued, throughout 2015 and in fact until as late as 2016, to commission further reports from private investigators, some five or six reports in all, and it is the information given to him in those reports which he now claims shows the likelihood that fraud had been committed by Mrs Chilcott, and which founds, therefore, his demand to be made executor of his father's will, so as to be able to pursue this matter. It is more convenient to consider the actual information, and the part which it plays in Mr Chilcott's application, at a later point.

#### Settlement of the Will Proceedings

70. The interlocutory stages of the trial of the Will case, including an application by Mrs Chilcott for security for costs, took their course during 2015 and 2016. The case was originally scheduled for trial in September 2015, but the date was periodically deferred by consent until it was eventually set down for a five day trial in September 2016. By this time, Mr Chilcott and Mr Marquis had instructed AFR Advocates in place of Mourant Ozannes.

71. What then happened, and it is a point of crucial importance to these applications, is that the Will case was settled by an out of court settlement agreement ("the Agreement") dated 12<sup>th</sup> August 2016, made between all three parties.

72. The first substantive paragraph of the Agreement states

*"This settlement is made without any admission of liability on the part of any of the Parties and on the basis that the terms set out herein are in full and final settlement of all and any claims which the Parties have, or may have (whether known or unknown), against each other (including the Defendant in her personal capacity and as Executrix of the Deceased's Estate) or against the estate of the Deceased including, but not limited to, any matter relating to the administration of the Deceased's estate, any matter relating to the subject matter of the Proceedings and any matter relating to [Les Pres de Jerbourg Limited]"*.

73. By the remainder of the Agreement, insofar as here material, the court proceedings were withdrawn, and Mrs Chilcott agreed to work diligently to complete the refurbishment of Rosevale, and to proceed to market *Les Pres*, with the procedure for this laid down in detail, keeping Mr Chilcott fully informed, and taking all reasonable steps to obtain best value including any development value. The eventual proceeds of sale of *Les Pres* were to be used by Mrs Chilcott to reimburse herself the "Estate Expenses" (being a sum which she stated she had spent on maintaining the property), the two legacies which she had paid out of her own monies and any reasonable future Estate Expenses.

74. The proceeds were then to be divided equally between Mrs Chilcott and Mr Chilcott, provided that Mrs Chilcott was to be entitled to deduct from Mr Chilcott's share, the sum of £175,000 which he had agreed to pay back to her, and the balance of her legal costs incurred in relation to the Will Case above a payment into court in that regard, which was to be paid over to her.

75. Among a series of warranties and representations, Mrs Chilcott warranted that the estate of Paul Chilcott had been properly declared, and that since the death of Paul Chilcott she had not received nor had the benefit of any funds or assets of Paul Chilcott which would have formed part of his estate if they had been received in his lifetime. Mr Chilcott and Mr Marquis acknowledged the legal validity of the 2008 Will and, but specifically in reliance on the documentation disclosed to them by Mrs Chilcott, acknowledged that the estate of Paul Chilcott had been properly declared. The only other provision requiring note was that the

Agreement was expressed to inure for the benefit of, and to be binding upon, the parties' successors and assigns.

76. The importance of this Agreement, for present purposes, is that so long as it is in effect, many of the complaints which Mr Chilcott is continuing to raise in this application are simply not open to him. They have been compromised within the above terms. Nonetheless, Mr Chilcott does seek to persist in his complaints and his mission to become, as he sees it, rightfully his father's executor and to pursue and enforce the complaints which he perceives he has, largely, it would appear, about being deprived of his rightful inheritance, and in particular for the sake of his son. He has argued that the Agreement is "null and void" and, in effect, that this court can and should disregard it.
77. He first insisted that the settlement Agreement was made by him under "duress". By this, he was referring to the fact that it was made when the trial of the action was looming and that his advocates were warning him emphatically that if the case went to trial he and Mr Marquis were going to lose. The terms of the Agreement are undoubtedly, and remarkably, both extraordinarily far reaching and comprehensive and also, on the face of it, very beneficial to Mrs Chilcott. She appears to have given virtually nothing, bearing in mind that although she was supposedly bequeathed 75% of the value of *Les Pres* she would have had to forgo much of this to implement Mr Chilcott's entitlement to *légitime*. Nevertheless, the kind of "duress" which Mr Chilcott refers to is not duress as recognised at law. It is simply the kind of commercial pressures which often impel a party to make an agreement on terms which they strongly dislike and object to, but have decided to accept out of pragmatism or because of other pressures.
78. Mr Chilcott was also anxious that the court should be aware of his understanding of the basis on which he agreed to settle the proceedings in terms of the Agreement. He therefore insisted on putting before the court the five page letter of advice which he received from Mr Breckon, of his then Advocates, and on which he says he relied. He pointed out that Mr Breckon said that the agreement would continue to be binding unless there was a breach of the Agreement, or a finding of fraud.
79. Mr Breckon later observes that the warranties and representations are "*crucial to your [Mr Chilcott's] concerns of establishing, at some later date, that Margaret has committed fraud*". He points out that this would require documentary evidence that she had done so, but says that assuming it could be proved that Mrs Chilcott had committed such an offence, either by way of a simple under-declaration of the estate or fraud itself, then Mrs Chilcott would be in breach of the Agreement and it would be possible to have the Agreement set aside. He also points out, however, that Mr Chilcott would be unlikely to want to set aside the agreement because, he suggests, of the beneficial split of the proceeds of sale of the house, and that in practice the better course would be to confront Mrs Chilcott and demand damages. Mr Chilcott's intention to continue investigations is noted.
80. Mr Chilcott submitted, in effect, that all this showed that the Agreement could be disregarded, because he had in fact demonstrated, from the evidence with which he later confronted Mrs Chilcott and has revealed in this case, that Mrs Chilcott had committed fraud and/or been in later receipt of monies or assets which should have been part of his father's estate and which therefore, apart from fraud, were not properly declared, so that she has committed a breach of warranty.
81. That, however, is not sufficient in itself for the court to disregard the Agreement. Unless and until there is a court order setting aside the agreement, the Agreement has to be regarded as valid and binding according to its terms. Any such court order could only be obtained through proceedings specifically in that regard, conducted with a view to determining

whether or not the Agreement ought to be set aside. That is not this application, and it has not happened.

#### Subsequent events

82. To complete the chronology, about a month after the settlement Agreement, Mr Chilcott wrote directly to Mrs Chilcott robustly revealing certain of the facts that his private investigators had told him they had uncovered, and in particular alleging that the source of the funds used by her to purchase Rosevale in 2012, and which repaid £225,000 of an apparent mortgage on a property owned by Mrs Dockerill in Hove in 2011, and which were used for the expenditure of £65,000 on improvements to Mrs Dockerill's house (formerly Mrs Chilcott's) in St Martins, had been Magnum Corporation and Danburg Corporation, foreign entities managed by the fraudster Gerald Alun Smith. He asserted that these sums, totaling £960,525, were part of Paul Chilcott's estate and that Mrs Chilcott was therefore in breach of the settlement Agreement and guilty of misappropriation of those funds and indeed of a criminal offence, and threatened that unless Mrs Chilcott gave a "full account of herself" within 48 hours, he would seek a court order requiring "disclosure of this information [sic]" and would report matters to the police.
83. On 6<sup>th</sup> December 2016, and somewhat more appropriately, AFR on behalf of Mr Chilcott wrote to Collas Crill on behalf of Mrs Chilcott, complaining first that Mrs Chilcott was in breach of the procedures for sale laid down in the settlement Agreement, but second, and referring to yet other payment information derived from Mr Chilcott's private investigators, asking if she could shed light on payments totaling £367,000 apparently made from an off-shore company Bryland Holdings Limited to Paul Chilcott's bank in December 2008 and January 2009, and emanating from the "Chilcott Structure" which had been the off-shore holdings of Paul Chilcott the subject of the fraud committed against him, and also the transfer of a sum of £135,000 to a "Margaret Chilcott of Guernsey" in March 2010 from the Chimel Trust Company, an entity run by Mr Peter Michel, a convicted money-launderer who had been involved in Mr Smith's fraudulent activities.
84. However, Mrs Chilcott died soon after, on 13<sup>th</sup> December 2016, aged 86, and before any response. Mrs Dockerill says that she believes that the stress of the court proceedings and ongoing disputes hastened her mother's death.
85. This brings the account of the history largely up to the time of the matters recited at the start of this judgment. Mr Chilcott lodged the caveat against the estate of Mrs Chilcott on 11<sup>th</sup> January 2017 and Mrs Dockerill applied to remove it on 17<sup>th</sup> February 2017.
86. At about this time Mr Chilcott instructed his fourth firm of advocates, namely Carey Olsen. On 4<sup>th</sup> May 2017, that firm wrote on Mr Chilcott's behalf to Collas Crill, methodically raising all Mr Chilcott's stated concerns, queries and demands, and expressing the hope that matters could be resolved, if these could be satisfactorily answered by Mrs Dockerill.
87. They raised the fact that Mrs Chilcott had incurred large items of expenditure since the death of Paul Chilcott totaling about £1.168M whilst her receipt of funds from his investment bonds and bank accounts had, at that time, been disclosed only as £1.163M, and asked for an explanation of how Mrs Chilcott had managed to finance that expenditure. They sought insurance valuations in respect of the contents of *Les Pres*, with particular reference to the stamp collection. They queried the redactions of Mr Chilcott's medical records. They questioned the source of Mrs Chilcott's funds to purchase Rosevale in 2012. They questioned the source of the £225,000 apparent repayment of the mortgage on Mrs Dockerill's property in 2011. They sought copies of Mrs Chilcott's statements for her HSBC and Lloyds bank accounts from 2006 until her death, specifically in connection with the payments totaling £367,000 from Bryland Holdings Limited to her HSBC account number 24182786 in

December 2008 and January 2009, and payments into her Lloyds Island Premier Account No 001084059, which had apparently originated with Mr Michel. They asked for the opening dates of the four investment Bonds, and for evidence of the “maintenance works” which Mrs Chilcott had carried out on *Les Pres*. They asked for a copy of Mrs Chilcott’s will and the declared assets of her estate, and for authority to obtain, themselves, a copy of the file of Appleby & Co in Jersey, relating to the fraud committed on Paul Chilcott. Finally, they asked Mrs Dockerill to agree to Mr Chilcott being appointed executor of Paul Chilcott’s estate, and asked that she should send several items of jewellery, pens and maps owned by his father to them, to pass to Mr Chilcott (despite, obviously, the terms of the Will).

88. Collas Crill replied to this letter on 19<sup>th</sup> May, providing some such information but in many places responding either that matters such as Mrs Chilcott’s personal wealth and details of her will were none of Mr Chilcott’s business, and that many matters, such as the redacted medical notes and the maintenance expenses for *Les Pres* were irrelevant for having been included in the settlement Agreement. They did, however, confirm that there was no record at the bank of Mrs Chilcott having held bank accounts with the numbers given, and they also confirmed that the original mortgage on Mrs Dockerill’s property in Southampton had been paid off in 2002, and that there had been no further borrowings on the property, such that that allegation was not understood. They asserted that Mrs Dockerill was the right person to complete the administration of Paul Chilcott’s estate, as to which the implementation of the sale of the house under the settlement agreement was all that remained, and threatened to pursue the removal of the caveat in seven days’ time.
89. At about this time Mr Chilcott decided to take matters into his own hands. He responded in typically vigorous and aggressive terms to Collas Crill’s letter, insisting that he wanted replies to all the queries which he had himself raised to Carey Olsen, rather than the simplified and toned down version contained in their letter of 4<sup>th</sup> May 2017 to Collas Crill. He later launched the application to be made executor of his father’s estate, in person, in June 2017. Since that time, Mr Chilcott has not been legally represented.

### **The Harassment Notice**

90. There is only one further matter which needs to be recited in this chronological account, and this is that in January 2017 Mr Chilcott became the subject of a police Harassment Notice in Guernsey (and possibly at his home in Devon as well) instigated by Mrs Dockerill and her brother, Mark Brockway, complaining of harassment and intimidating behaviour by Mr Chilcott. Mr Chilcott was apparently arrested in this regard in Guernsey in January and spent an uncomfortable and doubtless humiliating five hours in custody before being released.
91. Mr Chilcott is under the impression that the Notice is based on alleged intimidating behaviour by him at States of Guernsey offices in Bulwer Avenue on 26<sup>th</sup> January 2017, which was said to have been recorded on CCTV. Being convinced that he had been guilty of no such behaviour, he demanded copies of the CCTV footage from the police, and was very angry that this was not provided to him at the time, or shortly after, nor indeed until he demanded it yet again in September 2017.
92. Mr Chilcott wanted to play this recording to the court at this hearing, to demonstrate that he had not been aggressive and that this evidence, which he saw as being relied on by Mrs Dockerill to suggest that he was not a fit person to be appointed executor of his father’s estate, had therefore been trumped up and was even (he hinted) the product of a conspiracy between Mrs Dockerill and the police. Mr Chilcott was permitted to play this recording to the court, and it did, indeed, show that on the occasion in question, on 26<sup>th</sup> January 2017, he had not been behaving in an aggressive manner, when trying to get to see Mr Brockway at his place of work, and being told, after some time, that Mr Brockway was not there.

93. However, the Harassment Notice was itself served on Mr Chilcott that day, and the evidence suggests that it was based on other occasions, and not simply (if at all) on this incident. It has not been proportionate to investigate this matter any further.

### **Matters of evidence**

94. Turning to the evidence, it is appropriate here to set out the matters which are relied on by Mr Chilcott as amounting, taken all together, to a sufficiently clear case that Mrs Chilcott has defrauded or diverted to herself funds which ought to have been part of his father's estate, so as to amount to fraud and justify appointing him as his father's executor to enable further investigations to be made and proof to be obtained. These were extracted from Mr Chilcott's evidence as the following:

(i) The stamp collection

95. How this was dealt with in the early days of the administration, and the valuation for probate purposes of £1,800, has been noted above. There the matter rested until after the commencement of the Will proceedings, in 2015. At this time, Mr Chilcott began to object that he could not have been given the entire stamp collection. He said that the collection had been inherited by his father in 1984 from his own father, one Leopold Posner, and that its value was believed, in the family, to be about £225,000 - £250,000. He argued that the probate valuation was belied by the fact that he had been able to sell two individual stamps for almost the entire supposed valuation, although, as already mentioned, he was not able (or prepared) to tell the court how much he had sold the collection for. He asserted and asserts that Mrs Chilcott took the valuable bulk of the stamp collection and has neither declared it as part of the estate, nor given it to him as was his entitlement. He believes that five payments of round sums (between £5000 and £8000) which his investigators report were made into bank accounts in Mrs Chilcott's name in 2011, must have been the prices of individual stamps kept and sold by Mrs Chilcott; he can see no other explanation for the receipt of such sums by an 80 year old lady who admits to having previously had no independent means.
96. When confronted with this accusation, Mrs Dockerill found, and has produced, an insurance policy addressed to Paul Chilcott in the year before his death, which values the stamp collection at £1,000. Mr Chilcott responds that this is a fiction and that his father kept the most valuable stamps in a sturdy safe, and therefore would not have insured them - although previously he had, of course, thought it pertinent to ask for insurance valuations. However, those stamps were not in the safe when he was permitted to go to it on 5<sup>th</sup> September 2008 to retrieve papers such as his own birth certificate.
97. Mrs Dockerill denies all of this, and points out that investigators hired on her behalf have been unable to verify Mr Chilcott's account of the claimed inheritance by his father from his grandfather in 1984 or at all. Mr Chilcott's response to that is that details show that the testator who was traced by them is another person with the name "Leopold Posner" who was not his grandfather, and that in any event the collection might have been gifted rather than bequeathed.

(ii) Receipt of monies into undisclosed bank accounts

98. Mr Chilcott's allegations of misconduct by Mrs Chilcott centre on five occasions of alleged suspicious use of large sums of money emanating from entities which either had an association with or were run by the fraudster Mr Smith, or by his associate in crime, Mr Michel. He believes that all of these sums were, in fact, monies which were obtained in fraud of his father and/or his father's estate. As evidenced from his private investigators' reports (but these matters have not always been put to Mrs Chilcott, Mrs Dockerill or their advisers in quite the same terms), these are:

- (1) The receipt by Mrs Chilcott in December 2008 and January 2009 of payments totaling £367,000 from Bryland Holdings Limited (a Michel entity) into an HSBC Guernsey bank account 24182786, once in the joint names of herself and Paul Chilcott (but referred to by Mr Chilcott as being in Mrs Chilcott's name), and later largely transferred out to an account in Hong Kong in February 2009;
- (2) The receipt by Mrs Chilcott in March 2010 of around £135,000 into an HSBC bank account No 54857658 opened in Mrs Chilcott's sole name in June 2003, emanating from an account in Jersey for the Chimel Trust Limited, (a Michel entity) and then allegedly largely moved on to an account in the BVI said to be in the name of a Westgrove Internatinal Limited, a company with links to Mr Smith;
- (3) The originating by Mrs Chilcott in January 2011 of a new account, No 00108459 with Lloyds Bank, funded with £10,000 from Chimel Trust Limited, and some later (relatively small) payments into this account;
- (4) The repayment in 2011 of £225,000 in respect of a mortgage held by Santander Limited over Mrs Dockerill's property in Hove; the source of this payment is suggested to have been the Magnum Corporation (a Smith entity) or its subsidiary, Danburg Corporation Limited, and
- (5) The use in 2012 by Mrs Chilcott of a sum of £675,000 for the purchase of Rosevale, also understood to have emanated from Magnum Corporation.

99. As to the first and third payments, Mrs Dockerill says that she knows nothing of these payments and can find no trace of the bank accounts specified. HSBC wrote a, possibly carefully worded, response letter of 17<sup>th</sup> May 2017 to an enquiry, stating that they could find no record in their St Peter Port Branch of an account with that number "in the name of Mrs Margaret Chilcott". Lloyds Bank have also written in response to a query on Mrs Dockerill's behalf confirming that they can find no trace of the account at (3). Mrs Dockerill has also produced a letter from HSBC in St Peter Port dated 3<sup>rd</sup> October 2017, confirming the details of all known accounts in which Mr Paul Chilcott had an interest (previously in sole name but by then in joint names) at the date of his death, and also details of an earlier account in his sole name which disclosed the receipt of £1,410,504.93 on 25<sup>th</sup> September 2007, but which was closed in January 2008 (before his death) and the balance transferred to his savings account, then in his sole name but subsequently put into joint names with Mrs Chilcott in August 2008.

100. As to the fourth payment, Mrs Dockerill says she knows nothing of this (she was previously given no details of anything apart from the fact of the apparent transfer of the funds to her), and that the mortgage on her property, owned since 1983, was modest and was fully paid off in 2002. Mr Dockerill gave a consistent story on an occasion when he was confronted by Mr Chilcott. Mrs Dockerill provided evidence from her lender, Alliance and Leicester, confirming that there has been no further borrowing on the property. Mr Chilcott suggested that the second lender was Santander Ltd, and not Alliance and Leicester, but Mrs Dockerill points out that Alliance & Leicester is part of Santander. It has been later stated from enquiries that any apparent entry in records to which Mr Chilcott's private investigators may have gained access was a mistake, and probably occurred on the amendment of records when Santander took over Mrs Dockerill's original lender.

101. Mrs Dockerill does not specifically deal with the source of the fifth payment, nor those alleged to have been made into the acknowledged account of Mrs Chilcott, No 54857658, but relies on her general evidence that all the financial assets of Paul Chilcott had been transferred into joint names with Mrs Chilcott by the time of his death, so far as she could

now, and reasonably, ascertain. The purchase of Rosevale was, of course, some four years after his death, and the evidence of the mistaken over-declaration of the assets actually forming part of Paul Chilcott's estate provides some potential evidence of the extent of cash and investments available to Mrs Chilcott herself from the time of her husband's death.

102. It is also pertinent to note in this context that although the above payments from the above entities have been put forward by Mr Chilcott as believed to be funds which were in fact rightfully his father's, first, all those payments post-dated Paul Chilcott's death, and, second, the assertions as to their being his money appear to rest entirely on inferences which it is claimed should be drawn from the alleged sources of the funds and their indirect associations with Mr Smith and Mr Michel, the fact that Mr Smith had been convicted of defrauding, inter alia, Paul Chilcott, and the alleged fact, that Mrs Chilcott had known Mr Smith since many years earlier (in the 1990s) and (which Mr Chilcott finds quite incredible) that he or Mr Michel had reportedly been giving her financial advice, even after the time of the fraud on Mr Chilcott. There was, though, no "*official data available in respect of any business dealing*" between them, and even the investigators advised, in their report of (apparently) 12<sup>th</sup> October 2015, that they could not directly identify the funds said to have emanated from entities connected with Mr Smith and Mr Michel to funds which had been stolen from Paul Chilcott. Mr Smith had, of course, had many clients. He was also by then, no doubt, out of prison - and seemingly back at work, in glamorous places.

(iii) Redaction of medical notes

103. This can be dealt with quite briefly, as the explanation for the redactions has been supplied to Mr Chilcott and referred to above. Having ultimately received unredacted versions of the medical notes, he was anxious that these should be before the court, and they were included in the trial bundles, helpfully prepared by Mrs Dockerill's Advocates, (although they were somewhat confusing because, in trying to economise on paper, Mr Chilcott had provided them copied on to the unused backs of various irrelevant commercial invoices). What he was anxious to explain to the court, though was that he and his partner had had to spend a great deal of time going through these copious notes to identify the material which would show or suggest his father's failing capacity, and they had not had enough time to complete this exercise thoroughly before the hearing.

104. At the hearing he also made the assertion that he had not, until this hearing, been given copies of the other sets of notes, the three page narrative palliative care notes provided through the Community Nursing Service. Advocate Hay disputed this, and produced records which showed that these notes had been supplied to Mr Chilcott or his advocates previously, although it is not clear that Mr Chilcott actually accepted this; he had in fact not brought all his paperwork with him because, he said, of weight constraints on his flight from the UK.

(iv) The dispute as to the will reading appointment

105. This is a further matter, the evidence on which has been largely set out in the course of the narrative above. What did actually happen has no direct relevance to the matters in issue, and the dispute itself need not be rehearsed again, but the arising of the dispute itself is one of the circumstances of the case, to be evaluated.

## **Issues and submissions**

106. As indicated above, the essential issue which remains in these applications is the question whether or not Mr Chilcott should be specifically granted letters of administration to enable him to become "executor" of his father's estate or whether that office should be allowed to devolve upon Mrs Dockerill through her taking probate of her mother's estate.

107. For Mrs Dockerill, Advocate Hay was inclined to submit that the very making by Mr Chilcott of this application was a breach of the settlement Agreement and precluded by it, but he did not persist in that application in the face of the Lt-Bailiff's indication that she did not regard that extreme submissions as sustainable.
108. He next submitted that there was, in fact, nothing remaining to be administered in the estate of Paul Chilcott; this had effectively been completed a long time ago. This submission appeared therefore to involve the proposition that the implementation of Mrs Chilcott's part of the settlement Agreement was not part of the administration of Paul Chilcott's estate, but something separate and different. However, as Advocate Hay accepted, there had never been any final accounts delivered by Mrs Chilcott in respect of her concluding the administration of the estate, from which her formal discharge as executor of Paul Chilcott would either follow or could even be inferred. The Lt-Bailiff therefore took the view that it could not be said that the estate of Paul Chilcott had ever been fully and finally wound up, and she therefore rejected the argument that no appointment to the "executorship" of Paul Chilcott's estate would, or even could, be made as a matter of law on the grounds that the administration had been completed or there was no longer anything to administer.
109. Advocate Hay then further submitted that on any basis, insofar as the administration of Mr Chilcott's estate were not complete, it was Mrs Dockerill rather than Mr Chilcott who, with familiarity with the outstanding matters through her mother (in effect, he would submit, simply the sale of *Les Pres*), was the right person to step in and complete the administration, from a practical point of view.
110. He invited the court to reject the allegation that Mrs Dockerill was unsuitable because of an alleged conflict of interest, on the grounds that Mr Chilcott's allegations were all allegations of misconduct by Mrs Dockerill's mother and not her, and that in any event, the allegations which were persisted in were all either irrelevant or without any credence, when properly looked at. Most of it was mere assertion, or based on reports of reports from private investigators who were neither providing evidence in person, nor revealing their sources so as to enable claimed or suggested facts to be checked.
111. Advocate Hay then invited the court to find that Mrs Dockerill was a fit and proper person to become executrix (by representation) to Paul Chilcott's estate. The allegations of fraud or misconduct were not made against her, and she had taken all reasonable steps to investigate and check the material being referred to, where that was possible, in order to allay suspicions, and even though (it was submitted) she was not obliged to do so. He submitted that this indicated, positively, that she was open, responsible and co-operative and thus a fit person to act as executrix of Paul Chilcott's estate.
112. Lastly, Advocate Hay submitted that, by comparison, Mr Chilcott was an entirely unsuitable person to be granted representation to an estate, viewed on his own account, but especially in preference to Mrs Dockerill. He submitted that Mr Chilcott's accusations were intemperate in the extreme, ill-founded and even wild. Mr Chilcott entirely lacked objectivity in his accusations of Mrs Chilcott, and also, as expressed in his wholly undisciplined emails and other communications, of Mrs Dockerill. He interpreted evidence to fit his preconceptions and was unable to accept or admit where these were proved wrong, simply moving on to assert some further theory to justify his position. Not only did this make him unsuitable in character to be granted the office of executor of Paul Chilcott's estate, but his conduct, both as regards Mrs Chilcott and latterly towards Mrs Dockerill (and Mr Brockway) and also even as regards his conduct of these proceedings, demonstrated that, if clothed with the authority of an executor of Paul Chilcott's estate, he would use this to harass Mrs Dockerill, whom he had frequently threatened with just such harrying in colourful terms. This would be an abuse of the office of executor, and not a matter which the court should facilitate by granting his application.

113. Mr Chilcott's submission was to the effect that the chain of representation should not be allowed to operate in respect of his father's estate until "all doubt is removed" with regard to the evidence which he believed he had produced as to Mrs Chilcott's having committed "fraud and deceit". It is to be observed that plainly, in order to be material, this evidence needs to be in relation to defrauding Paul Chilcott or his estate, at least, although in places Mr Chilcott seems to enlarge this proposition to relate to wider general allegations, such as that Mrs Chilcott was engaged in money laundering for Mr Michel.
114. Mr Chilcott argues that Mrs Dockerill is an unsuitable person to become executor of his father's estate because she plainly has no incentive to investigate the matters which he claims to have revealed, because she is not only Mrs Chilcott's daughter but also the major beneficiary of her estate - by implication swelled by the proceeds of the wrongdoing which he postulates. He argues that he has obtained the initial information, from responsible and skilled investigators, and claims that it has been well-checked, and that he is the only person who is properly equipped to follow this up and seek the necessary documentary information, expected to prove his beliefs. He argues that he is entitled to a proper investigation of these matters, which only he can satisfactorily undertake, and which will not only swell the estate of which he is a rightful beneficiary but show that the settlement Agreement can be upset because of Mrs Chilcott's fraud. He maintains, passionately, that as the only son of Paul Chilcott he has both a moral – and he would say legal – right to be appointed as his personal representative, in the present circumstances.

## Discussion

115. The Lt Bailiff advised the Jurats that the remaining issue in this application was which of Mrs Dockerill and Mr Chilcott was the more suitable and appropriate person to be made executor of the estate of the late Mr Paul Chilcott. She further advised that this was a question of fact which it was for the Jurats to decide, in all the circumstances appearing to them from the evidence in the case, but that as such circumstances included the legal position, she would give further directions about this. She suggested first, though, that they might be assisted in their deliberations by considering two questions, namely
- (1) what still needed to be done to complete the administration of Paul Chilcott's estate in all the circumstances? and
  - (2) who was the more appropriate person to be responsible for doing those things in all the circumstances?
116. She directed the Jurats that the effects of the settlement Agreement were material to the first question. She directed them that Mr Chilcott was bound by the terms of the settlement Agreement; he could not go behind the terms of that Agreement, or throw them over, so long as it was in place. She directed them that the Agreement remained in place unless and until it had been set aside by a court order; it was insufficient for Mr Chilcott simply to assert matters which, in his opinion, ought to mean that he was not bound by the settlement Agreement, or that it could be avoided. Unless the other parties agreed (which they obviously did not) he could only ignore its terms if and when it had actually been set aside by court order, and it had not.
117. The next question was therefore, what were the effects of the settlement Agreement which were material to the question, what required to be done to complete the administration of Paul Chilcott's Estate?
118. The first point was that, by the Agreement, Mr Chilcott had given up or relinquished all his claims against Mrs Chilcott, *known or unknown* at the time of the Agreement. This would

preclude his asserting any claim of his against her which had arisen at the time of the Agreement, even if not discovered until later. Moreover, this principle applied to all claims against her in her personal capacity “*and in her capacity as Executrix of [Paul Chilcott’s] Estate*”. This would therefore preclude any complaint or claim which Mr Chilcott might have had, as a beneficiary of that estate, in respect of Mrs Chilcott’s administration of the Estate up to the time of the settlement Agreement; Mr Chilcott had given up all his claims described above in return for the benefit of the terms of the Settlement Agreement regarding the imminent sale of *Les Pres* and the prescribed distribution of the proceeds or sale.

119. For the avoidance of doubt, she advised that the settlement Agreement did not purport to compromise any claim which Mr Chilcott might have, *arising* after its date (in contrast to merely being discovered after its date), and neither (as Advocate Hay had accepted) did the settlement Agreement extinguish any claims which *the deceased, Paul Chilcott* might have been able to maintain against any third party at the date of his death, even if this were against Mrs Chilcott. Paul Chilcott’s estate was not a party to the Settlement Agreement. Such claims could therefore remain extant, in principle, and an executor of Paul Chilcott’s estate would be free to pursue them.
120. The result was that the matters which would need to be dealt with in completing the due administration of the estate of Paul Chilcott were now confined broadly to two. The first was the due implementation of the sale of *Les Pres* pursuant to the terms of the settlement Agreement. The second was the consideration of, and getting in, any other assets of the Estate which had not been got in, which would include, in effect, any causes of action vested in Paul Chilcott at the date of his death. The Lt-Bailiff advised the Jurats that, of course, insofar as any such claims might be successfully made, and assets brought in to Paul Chilcott’s Estate from such a source, they would require to be administered in accordance with the inheritance law and the Will. The effects of the settlement Agreement in any such eventuality were, though, too speculative (they would depend on the facts) to require consideration at this stage.
121. The Lt-Bailiff further advised the Jurats that, on the above basis, it was therefore not necessary or appropriate for the new executor to consider or deal with any suggested complaints with regard to any supposed deficiency or breach of duty *in the administration of the Estate by Mrs Chilcott* up to 12<sup>th</sup> August 2016, in contrast to any claim which might be vested in the Estate itself at the date of Paul Chilcott’s death. This was because Mr Chilcott was the only beneficiary of the Estate potentially adversely affected by the former such matters, and, as already mentioned, any claims of his of that nature had been extinguished by the settlement Agreement and replaced by it.
122. For the avoidance of doubt, neither was it necessary or appropriate for the new executor to consider matters of alleged criminal conduct by Mrs Chilcott, not connected with the realisation of claims vested in the estate of Paul Chilcott, such as alleged indeterminate money laundering activities on behalf of Mr Michel. An executor was concerned only with matters of the administration of the Estate, and that administration was not a tool for use in criminal investigations, those being the province of the police or other law enforcement authorities. Neither, she further advised, was it the purpose of the office of the executor to be used as a tool for gaining information for any purpose or objective other than the due administration of the relevant estate.
123. In coming to their conclusions as to which of Mrs Dockerill or Mr Chilcott should now be appointed executor of Paul Chilcott’s Estate, the Jurats should therefore assess what apparently required to be done in relation to the completion of the administration, bearing in mind the framework above. They would then wish to consider, in the light of this, which of the two candidates for executorship appeared to them, in all the circumstances, to be the more suitable or more appropriate appointee. Any concerns which they might have about

whether either of the candidates was a suitably fit and proper person to be appointed were matters to be balanced along with, and against, any other concerns they might have as to whether either appointment would, in all the circumstances and the events which had happened, materially prejudice the prospects of the estate of Paul Chilcott being fully gathered in and administered for the benefit of his heirs, according to the law and the wishes of his Will.

## **Decision.**

124. The Jurats have unanimously concluded that it is not appropriate for this court to direct that Mr Chilcott should be created executor of the estate of his father, Paul Chilcott.
125. They observe, first, that Paul Chilcott did not appoint Mr Chilcott, to be his executor under either this Will, or his previous will made in 2007, and that Mr Chilcott does not suggest that he was ever so appointed under any previous will made or contemplated prior to his father's marriage to Mrs Chilcott. As such an appointment of an only son, jointly with a spouse, would be very natural, they infer that it was a conscious decision of Mr Paul Chilcott not to do so. The Jurats also find support for this inference from comments in letters written by Paul Chilcott (such as that of 20<sup>th</sup> December 2005 to Dr King) which are in evidence, and also from the fact that Mr Chilcott admits to never having been involved by his father in his financial dealings.
126. Mr Chilcott placed great weight on the mis-spelling of the word "credability" in the letter of 4<sup>th</sup> January 2006 from his father to his doctor, in arguing that these letters had in reality been written by Mrs Chilcott rather than his father, but the Jurats reject this, and can see nothing sinister in the mis-spelling (there are other examples of spelling errors in the evidence). On the contrary they note that this and the previous letter are both rational and coherent, that Mr Paul Chilcott expressed annoyance and reservations about Mr Chilcott's behaviour, including that it had been "hysterical" and "exaggerated", and that he did so over a strong, confident and consistent signature.
127. Whilst the Jurats note, and have taken due account of, Mr Chilcott's claims that his father's mental faculties had been failing, even for some time, at the time of the making of the Will (although remembering that it is not open to Mr Chilcott to claim that therefore the Will itself is invalid), they do not see any evidence to support this assertion. Having looked at the full medical and palliative care notes now produced, they are unanimously firm (in particular Jurat Boyle) that these disclose nothing which suggests that Mr Paul Chilcott's mental faculties were failing, or that he was seen as losing capacity at the time. They are satisfied, therefore, that the indications of Mr Paul Chilcott's intentions and wishes which have been mentioned are reliable.
128. Leaving aside the apparent wishes of Mr Paul Chilcott and simply considering Mr Chilcott himself, the Jurats formed the firm view that Mr Chilcott would generally be an unsuitable person to be entrusted with the role of executor of Paul Chilcott's estate.
129. They are satisfied from the evidence, and so find, that Mr Chilcott lacks judgment and has a general tendency to act impulsively. He is quick to jump to conclusions, especially where they fit with his preconceptions, and he is then unwilling, to the point even of inability at times, to let them go, or even to reconsider them, when presented with clear evidence to the contrary. He sees malevolence or conspiracy at work in anything which is in opposition to his own recollection or opinion. This apparent general tendency in his approach is exacerbated in relation to anything to do with Mrs Chilcott, because it is there fuelled by his great and implacable antipathy towards her, even to the point of apparent obsession.

This leads him to be completely lacking in any objectivity with regard to issues concerning her, or his father's estate.

130. As examples, the Jurats note, first, to the fact that Mr Chilcott insists that Advocate Palmer, Mr Chivers and Mr Povey are "lying" with regard to the Will reading meeting (their presence and its oral content) and "demands an explanation" for this, rather than allow the possibility that they might be mistaken or have forgotten, or even that he himself might be mistaken. Similarly, he refused to accept the evidence that the supposed later mortgage on Mrs Dockerill's property in Hove, and more importantly the suggested partial repayment of this in 2011, was a mistaken record, and that there was no such further mortgage. He appears to persist in his accusation that Mrs Chilcott redacted his father's medical records to conceal evidence about his mental state, despite clear evidence that the medical practice said that it did this itself, and that Mrs Chilcott had had no hand in conveying the original records to the parties' advocates. He was adamant that he had never received the palliative care notes before, although evidence was produced that these had indeed, been passed over during the Will proceedings.
131. It is instances such as these which lead the Jurats to feel that they cannot place any confident reliance on assertions made by Mr Chilcott unless these can be checked and corroborated. Indeed, the Jurats observed one particular instance of the unreliability of Mr Chilcott's mere assertion first hand. The sealed confidential exhibit to the affidavit of Ms Rose Ogier was opened in court at the start of the hearing, and sent out for multiple copies of its contents to be made. The Court Security Officer then returned and distributed these. On the second day of the hearing when Advocate Hay wanted to refer to these, Mr Chilcott objected that he did not have the documents which Advocate Hay was referring to and had never had them. When reminded that they had been handed to him the previous day in front of the entire court, he insisted that as they "are not here", he had not had them.
132. Perhaps only a small further indicator of Mr Chilcott's temperament, but nonetheless one of note, is that Mr Chilcott has been represented through the process of contesting the will and subsequently by no fewer than four firms of advocates before finally coming to represent himself.
133. With regard to the stamp collection, the Jurats note that Mr Chilcott sold this collection for a "considerable" sum of money at Stanley Gibbons and also that, although he had previously said that it was not large, he later said that it filled an "estate car" when he took it in. They also note that there is no hint, in his correspondence at the time, nor for several years, of any suggestion that the money which he obtained for the collection was inconsistent with his belief as to its true value. The suggestion that it was really believed to be worth £225,000 - £250,000, and that the probate valuation of £18,000 was therefore false, was only made many years later, after, it is to be noted, Mr Chilcott received information that Mrs Chilcott was supposed to have received a handful of round sum payments into an (otherwise as yet unsubstantiated) bank account in her name, in about 2011.
134. The Jurats also have concerns about the Mr Chilcott's likely conduct if made an executor, arising from their observations of the style, vocabulary and syntax of his letters and depositions, containing as they do in various places, hugely intemperate and excitable language, words in capitals, wild accusations, and defamatory and threatening remarks. They consider that this all tends to underline his unsuitability to act as executor. They add that they are satisfied, having reviewed Mr Chilcott's protestations to the contrary, that the issue of the Harassment Notice will have been justified because it did not rest on the Bulwer Avenue incident itself (which took place on the same day it was served), but on a pattern of previous behaviour by Mr Chilcott towards Mrs Dockerill and Mr Brockway which was, and they have little doubt justifiably, seen to be harassing and intimidatory.

135. The end result is that the Jurats do not find that they can rely on assertions made by Mr Chilcott without the support of other credible evidence, and this influences both their evaluation of the evidence which he advances in support of his application, and also their assessment of his suitability to be granted the right and authority to administer his father's estate.
136. On the other hand, the Jurats can see nothing to criticise or to have concerns about with regard to Mrs Dockerill's character. She would appear, in principle, to be perfectly suitable to take on the role of an executor. She also has the advantage, with regard to completing the sale of *Les Pres*, of being resident in Guernsey.
137. The Jurats have therefore considered whether the obvious lack of incentive for Mrs Dockerill to recognise, still less to pursue, any claims against her mother which would remain available to an executor of the estate of Paul Chilcott, should be regarded as a factor, or a conflict of interest, which ought to disqualify her from taking that office, and lead to the conclusion that Mr Chilcott should be appointed instead.
138. In this regard, the Jurats note that Mrs Dockerill has carried out local investigations to try to obtain evidence to check and to refute some of Mr Chilcott's allegations, although it is fair to say that on close analysis this has not been universal, as she has taken the apparently taken the view that existing accounts solely in her mother's name, for example, are not material.
139. The Jurats have therefore turned to consider the propositions advanced by Mr Chilcott, based on the reports which he has received from his private investigators, to see whether these do suggest that there are material claims of sufficient potential substance, which may exist against Mrs Chilcott (now her estate), or indeed anyone else. The Jurats accept, of course, that the criticisms of Mr Chilcott's character which they have made do not mean that he should be cheated of his true inheritance, or other, rights. They must therefore ask themselves whether, on the evidence, there appears, to be a sufficiently real possibility that this could happen that it outweighs the considerations which they find make Mr Chilcott *prima facie* unsuitable to be appointed as executor of his father's estate.
140. In the end, the Jurats are firmly and unanimously of the opinion that it does not. As a result of the reports received by Mr Chilcott, the allegation that Mrs Chilcott will have been complicit in defrauding Mr Paul Chilcott of assets appears to have come to displace his initial allegations that she had under-declared the Estate and/or been guilty of deflecting money from the Estate, also as a result of the information suggested to him by the private investigators' reports. Essentially, though, and even taking these unsupported investigation reports at face value, the Jurats cannot see that the matters there alleged provide any cogent evidence linking Mrs Chilcott to the commission of frauds upon Paul Chilcott, such that proceedings against her estate by Paul Chilcott's estate ought to be facilitated. The allegations generally boil down to allegations that Mrs Chilcott appears to have received funds from companies which had an association with Mr Smith or were run by Mr Michel, and that she appears to have known the former (and possibly the latter) for some years, both before and possibly after the time of the fraud on Paul Chilcott. There is, though, nothing which links the monies allegedly received by Mrs Chilcott to being monies defrauded from Mr Paul Chilcott.
141. The Jurats also note that the fraud on Mr Chilcott was apparently thoroughly investigated in Jersey, resulting in convictions, and, further, that Paul Chilcott pursued a claim against the fraudulent Mr Smith for damages, which he settled for £1.5M, which events would suggest that his claims in this regard will have been properly investigated already, at the time. Confining material claims to those which might have been available to Mr Paul Chilcott at the date of his death, therefore, the Jurats are of the view that the prospects of there being such a claim against Mrs Chilcott (or indeed anyone else) become vanishingly small.

142. However, in the general context of possible claims available to Mr Paul Chilcott against Mrs Chilcott, they do record that there was one matter which gave them pause during the case. This was the question of the numerous transfers of financial assets owned solely by Paul Chilcott into joint names with Mrs Chilcott very shortly before his death and within a few days of the date of the 2008 Will. The Lt-Bailiff advised the Jurats that if there were valid claims to set these aside on the grounds of lack of capacity, undue influence, mistake, or suchlike, then these would be claims of the estate of Paul Chilcott, not compromised by the settlement Agreement, and therefore open to an executor of Paul Chilcott to pursue for the benefit of his estate.
143. Although these transactions were not expressly raised or relied on by Mr Chilcott, initially the Jurats had concerns that there might be some substance in the view that these transactions were suspicious, considering their timing, and their effect in significantly diverting assets away from the effects of the heirship laws and the Will and into Mrs Chilcott's hands, and that they ought perhaps to be investigated. Whilst they had seen evidence from the banks that these transfers had definitely been effected, they had had no evidence as to how the instructions to make these changes were actually given in practice by Paul Chilcott. They also recognised that Mrs Dockerill would have no incentive to consider, investigate, or pursue any such possible claims.
144. However, on consideration of the lack of any cogent evidence casting doubt on Paul Chilcott's mental capacity, and on reflection generally, and their experience that the making of such transfers in the face of terminal illness was (and indeed is) a not infrequent practice in Guernsey, as it is seen to reduce potential probate fees payable to the Ecclesiastical Court, the Jurats have concluded that their initial concerns were not justified.
145. In the end, therefore, they are simply not satisfied that any such possibility is sufficiently great as to require that Mr Chilcott should be granted representation to Paul Chilcott's estate despite their reservations about his suitability, having regard to all the circumstances.

## **Disposal**

146. In the light of the above, the decision of the Court is therefore that

- (1) Mrs Dockerill's application of 17<sup>th</sup> February 2017 is granted and the caveat lodged at the Ecclesiastical Registry on 12<sup>th</sup> January 2017 by the Respondent, Mr Stephen Chilcott, in respect of the estate of Mrs Margaret Chilcott, shall be lifted unconditionally.**
- (2) Mr Chilcott's application of 21st June 2017 to be appointed executor of the estate of Mr Paul Chilcott, deceased, is dismissed.**

147. As regards the costs of these matters, the Lt-Bailiff expresses the provisional view that, given her decision that Mr Stephen Chilcott did have sufficient interest in the grant of probate of the estate of Margaret Chilcott to Mrs Dockerill to justify his seeking directions from the Royal Court, that application was not incompetent. It ought therefore potentially to be regarded as part of the costs of the administration of Mrs Chilcott's estate, but in all the circumstances the correct order for costs is that there be no order with regard to the costs of that application.
148. With regard to the costs of Mr Chilcott's application, this has failed. Whilst, therefore, it would be open to Mrs Dockerill to seek her costs of that application against Mr Chilcott, it may be that as a matter of pragmatism or even benevolence, she would not seek to do so and would accept that there be no order as to costs on that application as well.

149. The court will therefore make no order as to the costs of either application, but will give liberty to either party to apply on paper to the court, to vary that order to some other order if so advised. Any such application should be made to the court within three weeks of receipt of the court order made pursuant to this judgment.

**Her Honour Hazel Marshall QC**  
**Lieutenant Bailiff**  
**22<sup>nd</sup> December 2017**