

IN THE SUPREME COURT OF NEW ZEALAND
I TE KŌTI MANA NUI O AOTEAROA

SC 106/2022

BETWEEN

A, B and C

Appellants

AND

D and E LIMITED a duly incorporated
company as Trustees of the **Z TRUST**

Respondents

AGREED CHRONOLOGY

Dated this 8th day of March 2023

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AGREED CHRONOLOGY

Date	Event	Reference	CB
26 Dec 1941	Robert born		
26 Dec 1959	Robert and Rose marry	Alice BOE 13	201.0004
1 Jul 1960	Greg born	Alice BOE 4	201.0002
12 Jul 1961	Alice born	Alice BOE 2	201.0002
24 Sep 1963	Barry born	Alice BOE 3	201.0002
1968	Robert begins sexually abusing Alice (age 7)	Alice BOE 6	201.0002
1969	Alice recalls being smothered by Robert and being told that if she told anyone what was happening, he would kill her and her mother (age 8)	Alice BOE 22	201.0006
1970	Alice soiling herself regularly, taken to Medical Centre to see doctor for “sore bottom” (age 9)	Alice BOE 24	201.0006
1970	Barry remembers violence from about age six	Barry BOE 7	201.0037
31 Mar 1971	Cliff born	Alice BOE 3	201.0002
1972	Alice is suicidal (age 11)	Alice BOE 26	201.0006
1973 –	Alice develops an eating disorder	Alice BOE 31	201.0007
1974	Sexual abuse of Alice ceases	Alice BOE 34	201.0008
1974/75	Barry sees a psychologist	Barry BOE 8	201.0038
1979/80	Cliff is involved in fights due to the violence and abuse experienced at home	Cliff BOE 5	201.0030
1980	Barry leaves home after physical fight with Robert – he is told to “leave the house, to get out and never return” – no further contact, ever (age 16)	Barry BOE 13, 14	201.0039
1980	Barry is stabbed by gang member, in Napier ICU for several weeks.	Barry BOE 18	201.0040

1980	Robert and Phillipa meet and possibly start affair	Alice BOE 41	201.0010
1981	Robert and Rose separate	Alice BOE 43	201.0010
1982	Robert and Rose reconcile Robert abuses Rose – pulling finger nails out, giving her tablets, pointing guns at the house	Alice BOE 43	201.0010
1982	Alice sees a doctor in Napier and discloses abuse – concerns ignored.	Alice BOE 52	201.0012
1983	Barry abandons partner and child	Barry BOE 20	201.0041
1983	Robert and Rose separate again	Alice BOE 45	201.0010
1982/3	Alice experiencing depression, bulimia, wanted to kill herself	Alice BOE 44	201.0010
1983/84	Cliff begins using drugs and alcohol (age 13)	Cliff BOE 12	201.0032
1984	Cliff begins suffering from depression (age 14)	Cliff BOE 12	201.0032
Oct 1985	Alice seeks counselling for the first time, while living in Christchurch, at age of 24/25, she pays for it herself	Alice BOE 52	201.0012
1986	Cliff suspended from school for drugs and fighting. Robert sends Cliff to Australia (age 15). Cliff runs away and is missing for several months.	Cliff BOE 14, 15	201.0032
1991	Cliff moves to the UK – develops severe and prolonged drug addiction including number of near death experiences	Cliff BOE 17	201.0033
1991	Alice advises Rose, Greg, Barry and Cliff, of the sexual abuse by Robert	Alice BOE 59, 60	201.0014
1991	Alice begins counselling and lodges ACC claim	Alice BOE 57	201.0014
1991 (Default date on doc 1/1/1975)	ACC claim number [REDACTED] appears to have been lodged and registered (2020 Letter from ACC states this is a sensitive claim number)	ACC Letter from ACC	301.0178 301.0171

Feb 1992	Rose writes to Robert advising him that they were aware of the sexual assault inflicted on Alice by Robert. Rose says what he had done to Alice was unforgiveable	Letter Rose to Robert	301.0007
12 Mar 1992	Lawyer writes back to Rose: claiming that the allegations were untrue and “quite defamatory” and that should she persist with the allegations there will be no alternative but to take “alternative action”. The letter concludes “please note that we do not wish to have any correspondence with you concerning this matter”	Letter lawyer to Rose	301.0008
Aug 1992	Alice writes to Robert about abuse: “I hate what you’ve done to me and that I suffer because of you”. Alice received no response.	Letter Alice to Robert	301.0009
1996	Alice’s son born 8 October 1996	Alice BOE 2	201.0002
1996 – 2013	Alice lives on DPB, supplementing with childcare, teaching and cleaning	Alice BOE 67	201.0016
21 Dec 2001	Robert executes will <ul style="list-style-type: none"> • Rocking horse to Alice’s son • Life interest in residential property to Alice, and on her death to residuary estate • \$25,000 to each of Robert’s children as survive him • Trustees may reduce any liability or debts owing by Alice • Residuary estate to his grandchildren and unrelated third party 	Will	301.0011
12 Sep 2003	Robert executes will <ul style="list-style-type: none"> • Rocking horse to Alice’s son • Life interest in residential property to unrelated third party and then on trust for Alice’s son • Interest in ██████████ bakery to Phillipa • Trustees may reduce any liability or debts owing by Alice 	Will	301.0014

	<ul style="list-style-type: none"> Residuary, “to such of my them my children, unrelated third party, and unrelated third party” equally 		
11 Oct 2004	<p>Robert executes will</p> <ul style="list-style-type: none"> Rocking horse to Phillipa’s grandson Residuary estate – held on trust until youngest grandchild of Robert and of Phillipa turns 21, during which time to pay 90% of the income towards their education and when youngest turns 21, distribute equally between grandchildren 	Will	301.0017
8 Oct 2008	<p>Robert writes letter to his lawyer regarding his will</p> <ul style="list-style-type: none"> <i>Wants his children and their dependants to get the minimum amount stated by law, if anything is required, only if they have a claim on his assets</i> <i>States no contact for 28 years and Rose got main relationship property</i> <i>Instructs no public notices, services, memorials on death and family not to be advised</i> 	Letter from Robert	501.0001
12 May 2009	<p>Robert discusses will with his lawyer</p> <ul style="list-style-type: none"> <i>What is he wanting to do?</i> <i>Don’t want his own grandchildren getting some share of estate cos when divorced gave everything to his wife and she will provide for them</i> <i>Wanted his g/ children to only receive minimal benefit from estate & majority to unrelated party g/ children</i> <p>...</p> <ul style="list-style-type: none"> <i>(Roberts health not good at present)</i> 	Lawyers file note of telephone call to Robert	501.0005
2009	<p>Undated file note from lawyer</p> <p>4 children Phillipa Phillipa’s kids Value of assets</p>	File note	501.0006
23 Jun 2009	<p>Robert executes will</p> <ul style="list-style-type: none"> Rocking horse to unrelated third party for her daughter. Household furniture, books, photographs for Trustees to distribute as they decide 	Will	301.0021

	<ul style="list-style-type: none"> • \$15,000 to family relative and \$15,000 to family relative • Residential property in two parts <ul style="list-style-type: none"> • One part to unrelated third party jointly and then to children • One part to unrelated third party jointly and then to children • Residuary estate two parts <ul style="list-style-type: none"> • One part to Greg, Alice, Barry and Cliff equally • One part to three unrelated third parties equally 		
3 Aug 2010	Robert phones lawyer – wants to make changes to will, as daughters are separating from their husbands	Email/file note	501.0008
10 Aug 2010	Robert executes will <ul style="list-style-type: none"> • Rocking horse to unrelated third party for her daughter. • Household furniture, books, photographs for Trustees to distribute as they decide • Residential property to be sold and divided into two parts: <ul style="list-style-type: none"> • One part to unrelated third party and then her children • One part to unrelated third party and then her children • Residuary estate two parts <ul style="list-style-type: none"> • One part to Greg, Alice, Barry and Cliff equally • One part to three unrelated third parties equally 	Will	301.0025
2011	Cliff returns to New Zealand	Cliff BOE 18	201.0033
28 Nov 2011	Cliff seen at Medical Centre – <u>“come back to NZ for a clean start after a 30 gram/3 days cocaine addiction and near death experiences from complications. He was a wreck, and his family basically rescued him and got him back to NZ. His addiction was at the extreme end of the spectrum...”</u>	Medical Reports	401.0208
21 Jun 2012	Lawyers notes from attendance on Robert <ul style="list-style-type: none"> - Giving home to unrelated third parties as have provided great 	Notes from attendance on Robert	501.0012

	<p>support, also support from unrelated third party</p> <ul style="list-style-type: none"> - Phillipa responsible for what he has now, - 20 years since contact with own children, - Rose received everything including 2 houses, children should be beneficiaries of her estate and he has contributed by not taking any property on separation 		
21 Jun 2012	<p>Robert executes will</p> <ul style="list-style-type: none"> • Rocking horse to unrelated third party for her daughter. • Household furniture, books, photographs for Trustees to distribute as they decide • Residential property, or net proceeds of sale, divided into two parts: <ul style="list-style-type: none"> • One part to unrelated third party and then her children • One part to unrelated third party and then her children • Residuary estate two parts <ul style="list-style-type: none"> • One part to Greg, Alice, Barry and Cliff equally • One part to three unrelated third parties equally 	Will	301.0029
Early 2013	Cliff attempts suicide by intentional overdose after stopping medication for severe depression. Enters respite facility then lives with family.	Cliff BOE 18	201.0033
11 Jan 2013	Medical Centre records - <i>“relapsed with classic depressive symptoms since stopping his citalopram about a month ago...some transient suicidal thoughts...”</i>	Medical Records	401.0204
5 Feb 2013	<p>Medical Centre records – <u>“here for follow up of depression treatment. Had a suicide attempt by intentional overdose in January and attended a respite home...then moved in with family”</u></p> <p><u>“improvement in mood since starting antidepressants and counselling”</u></p>	Medical Records	401.0206

22 Oct 2014	<p>Robert contacts lawyers advising he wants to settle a trust</p> <ul style="list-style-type: none"> • <i>Looking to put the home into a trust</i> • <i>Some health issues</i> • <i>Why Trust instead of will</i> <ul style="list-style-type: none"> - <i>In case get 'crook'</i> - <i>Also prevents any of his family chasing any of his</i> • <i>Trustees – Robert and Don</i> • <i>Main assets house & chattels [REDACTED]</i> • <i>+ shares (They wouldn't go into the trust at this stage (\$70,000 worth)</i> • <i>\$10 – 15, cash</i> • <i>Has 2012 will</i> • <i>Might need to change this as well</i> • <i>Will get lawyer to meet with him</i> 	Lawyers file note telephone from Robert	301.0033
12 Nov 2014	<p>Lawyer attends on Robert to discuss trust</p> <ul style="list-style-type: none"> - <i>Alone</i> - <i>4 children</i> - <i>No relationship with children</i> - <i>For 35 years</i> - <i>Robert had a relationship with Phillipa</i> <p><i>Assets</i></p> <ul style="list-style-type: none"> - <i>Home 350,000</i> - <i>Shares 60,000</i> - <i>Cash 15,000</i> - <i>Car, furniture</i> <p>...</p> <p>Issues</p> <ul style="list-style-type: none"> - <i>claim by children</i> - <i>[unrelated third party] main beneficiary</i> <p><i>Will</i></p> <ol style="list-style-type: none"> 1. <i>Chattels in home – [unrelated third party]</i> 2. <i>Between [unrelated third parties]</i> <p><i>Trust Home</i></p> <p><i>Benef - [unrelated third party]</i></p> <p>...</p> <p><i>Proceed with trust</i></p>	Lawyers file note attendance on Robert	301.0039
22 Dec 2014	<p>Robert settles Trust</p> <p>Trustees: Robert and Don</p> <p><u>Primary Beneficiaries:</u> Robert, [unrelated third parties] Children or grandchildren of [unrelated third parties], Any person</p>	Trust Deed	301.0054

	appointed by Robert, Any Trust which includes any of the Primary Beneficiaries <u>Final Beneficiaries:</u> [unrelated third party] or her children if she is not living, or the children and grandchildren of [unrelated third parties] if [unrelated third party] has no children		
22 Dec 2014	Robert gifts Napier property, to the Trust <ul style="list-style-type: none"> - GV \$360,000 - “in consideration of ...natural love and affection... transfers by way of absolute gift...and the donee does hereby accept...” - Signed by Robert and Don as trustees Property transferred into trustees names the same day	Deed of Gift Certificate of title	301.0073 301.0130
22 Dec 2014	Trustees enter into resolution accepting gift, free of any debt, income, or transfer expenses “The Trustees in consideration of [Robert] gifting the property...allow [Robert] to reside in the property, on the grounds he pays all insurance premiums and rates... and to maintain the property...”	Minutes of Trustee Meeting	301.0072
13 Mar 2015	Greg dies	Death Notice	301.0079
Nov 2015	Robert gives instruction to remove his children as beneficiaries of ½ share of reside under will – changes made on copy of 2012 will	File note	301.0080
9 Dec 2015	Robert gives instructions to transfer shares into trust, asks if he can leave estate to trust <i>Shares</i> <i>Want these to remain under the will but not to go to his children</i> <i>To go to unrelated third parties, equally as to first \$75,000 any remaining share proceeds to trust</i>	Lawyers file note attendance on Robert	301.0085 301.0089
21 Dec 2015	Robert executes his final will – he is attended on at his home by lawyer and witness	Will	301.0092

	Executors are lawyer and, for first time, Don <ul style="list-style-type: none"> • Rocking horse to unrelated third party for her daughter . • Household furniture, books, photographs for Trustees to distribute as they decide • Residue to unrelated third parties in equal shares 		
21 Dec 2015	Robert signs Share transfer forms to transfer shares in Freightways, Hallenstein, Infratil, Methven, to Trust		
27 Jan 2016	Deed of gift signed transferring shares to the trustees of the Trust <ul style="list-style-type: none"> - In consideration of the natural love and affection...gifts the assets ... free of any debt income tax or transfer expenses - Donees accept the gift 	Deed of Gift	301.0100
26 Feb 2016	Napier property transferred to Robert, Don, and trustee company as trustees	Certificate of Title	301.0130
20 Apr 2016	Robert dies		
31 May 2016	Probate granted		301.0112
4 Nov 2016	Respondent's solicitor advised of sexual abuse allegations	LWW BOE 15	201.0054 301.0129
23 Dec 2016	Family Protection proceedings issued by Alice, Barry and Cliff		301.0136
23 Nov 2017	\$15,000 distributed from Trust to beneficiaries	LWW BOE 17	201.0055 301.0143 301.0147
4 Apr 2018	\$9,000 distributed from Trust to beneficiaries	LWW BOE 18	201.0055 301.0153 301.0157
2 Jul 2018	These proceedings issued		101.0148
13 Feb 2020	Napier property transferred to Don & E Limited	Historic Title Search	401.0209

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A, B and C

Appellants

AND

D and E LIMITED a duly incorporated company
as Trustees of the **Z TRUST**

Respondents

CERTIFICATION AS TO PUBLICATION

Dated this 9th day of March 2023

Solicitors

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CERTIFICATION AS TO PUBLICATION

I CERTIFY that the accompanying chronology is suitable for publication and does not contain any information that is suppressed.

Dated this 9th day of March 2023

Lady Deborah Chambers KC/Isaac Hikaka / Josie Beverwijk
Counsel for the Appellants