

## BRIEFING NOTE

# Royal Court upholds disputed indemnity in GTC v Tchenguiz – estoppel, actual authority and the limits of consent orders

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*After a six-day trial, the Royal Court of Jersey found for Geneva Trust Company (GTC) SA in its dispute with Robert Tchenguiz, holding that a 2014 deed of indemnity is enforceable against him personally despite challenges to execution and a later Guernsey consent order. The decision confirms GTC may pursue the outstanding balance of its reasonable litigation costs — a clear win for Dickinson Gleeson in high-profile trust litigation (Geneva Trust Company (GTC) SA v Robert Tchenguiz [2025] JRC 197).*

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## Background – how the dispute arose

The dispute has long roots. In 2007, a restructuring of a related family trust moved assets and liabilities into the Tchenguiz Discretionary Trust (TDT). GTC became trustee in July 2010 after loan defaults following the financial crisis, leading to Guernsey litigation (first the Loans Proceedings, then the Proofs Proceedings).

A 2013 judgment of Sir John Chadwick, Lieutenant Bailiff, confirmed that the TDT's liabilities exceeded its assets and created a personal exposure for GTC to substantial adverse costs that could not be recouped from the TDT.

To protect itself while appealing against Chadwick's judgment in Guernsey, GTC asked Mr Tchenguiz, the principal beneficiary, for an indemnity. A deed dated 14 April 2014 was provided and relied upon; Mr Tchenguiz later denied seeing or signing it (the Indemnity).

The aim of the Proofs Proceedings was for the Royal Court of Guernsey to determine how the assets of the TDT were to be distributed amongst the various claimants, given that the claims exceeded the assets of the trust. GTC was one such claiming creditor in the Proofs Proceedings.

In 2018, GTC commenced separate Jersey proceedings to enforce the Indemnity (the Indemnity Proceedings). Those were stayed while the Proofs Proceedings played out, and GTC's claim in the Proofs Proceedings was ultimately settled by a Guernsey consent order on 9 July 2024 for £1.2m (the Guernsey Consent Order).

The present Jersey claim tests whether the Indemnity binds Mr Tchenguiz personally notwithstanding the Guernsey settlement. Although the Indemnity is English law governed, the parties agreed that the dispute could be litigated in Jersey.

## **Issues the Court had to decide**

The key legal points in dispute in the case centred around:

1. Estoppel and authority
2. Did the Guernsey Consent Order bar the personal claim?
3. What (if anything) could be taken from without prejudice correspondence?

### **Estoppel and authority**

Mr Tchenguiz denied ever providing GTC with an indemnity. Following expert handwriting evidence during the course of the proceedings, it became common ground that Mr Tchenguiz himself had not signed the Indemnity, but that his personal assistant, Sara Geraghty, had both signed and witnessed the deed.

#### **1. Actual authority — did the PA bind him?**

On the evidence, the Court found that Mr Tchenguiz's personal assistant, Sara Geraghty, signed and delivered the deed with his actual authority. He attended meetings where the Indemnity was discussed and was copied into emails, including those by Ms Geraghty enclosing the signed deed.

Even if Ms Geraghty had acted without his authority, the Court held that Mr Tchenguiz was estopped from denying the validity of the Indemnity.

#### **2. Estoppel by representation — delivery as a representation of due execution**

Because Ms Geraghty was held out as able to communicate approval and execute documents, her delivery of the deed represented that it had been properly executed. GTC and others relied on that representation to their detriment.

#### **3. Estoppel by silence — when saying nothing speaks volumes**

The Court concluded that, given the relationship and context, an honest and responsible person would have corrected any mistake about execution. Mr Tchenguiz was repeatedly copied; his silence reinforced GTC's belief the deed was valid.

#### **4. Attestation defect — does one person sign and witness?**

It was said the deed was defective because Ms Geraghty both signed and witnessed it. Reviewing leading English authorities (including *Shah v Shah*, *Briggs v Gleeds* and *Kelly v Fraser*), the Court held estoppel can operate where a document appears regular on its face and any defect is latent. Here, the deed looked valid and was relied on in good faith; estoppel prevented denial of its effect.

#### **5. Contractual validity — consideration saves the day**

Even if the deed failed as a deed, it still operated as a contract: GTC provided good consideration by incurring further legal costs in Guernsey, to Mr Tchenguiz's benefit, in reliance on the Indemnity.

## Did the Guernsey Consent Order bar the personal claim?

The Guernsey Consent Order compromised GTC's proof of debt against the trust assets for £1.2m — and no more. It did not release the separate personal indemnity claim.

Text and context pointed the same way: nothing in the order's recitals or operative provisions extinguished the personal claim. Commercial common sense supported that reading — the Indemnity exists for the very scenario of insufficient trust assets. In short: treating the Indemnity as spent by virtue of the Guernsey Consent Order (even although GTC's claims had not been settled in full due to an insufficiency of assets) would defeat its entire purpose, being to cover GTC in the event of a shortfall.

## What (if anything) could be taken from without prejudice correspondence?

Mr Tchenguiz relied on without prejudice material to argue that the Guernsey settlement swept up the indemnity claim too. Such material is generally inadmissible to construe a concluded agreement, but may be admissible to show whether any such agreement existed at all (*Rush & Tompkins v GLC*). The Court reviewed the exchanges (without objection from GTC) to test whether a broader settlement was ever truly agreed.

The correspondence told a different story: drafts and emails repeatedly preserved the separate indemnity claim, including references by Mr Tchenguiz and his lawyers. There was talk of a global settlement at the outset, but none was concluded. Ultimately, only GTC's claim in the Proofs Proceedings (being in relation to trust assets) was settled for £1.2m, whilst the Indemnity Proceedings were left outstanding.

## Why this matters

The Court ultimately did not allow legal technicalities, or the Guernsey Consent Order, to defeat the Indemnity, leaving GTC free to pursue Mr Tchenguiz for the shortfall in its reasonable costs under the Indemnity.

## Practical pointers

If you act for trustees or beneficiaries and face similar issues — indemnities, execution concerns or overlapping proceedings — we can help assess options and strategy. For a confidential discussion, contact [robert.vonrettig@dgadvocates.com](mailto:robert.vonrettig@dgadvocates.com) or 01534 737757.

## Contacts

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James Gleeson  
Partner  
+44 1534 737757  
[James.gleeson@dgadvocates.com](mailto:James.gleeson@dgadvocates.com)



Robert von Rettig  
Associate  
+ 44 1534 737757  
[robert.vonrettig@dgadvocates.com](mailto:robert.vonrettig@dgadvocates.com)

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