

I am personally very concerned about the decision of Justice Birss in the UK High Court decision of Mezhprom Bank vs Pugachev. It appears that the Judge has decided that for the trusts to be shams I must have had the intention of following the orders of Mr Pugachev regardless of the trustee obligations under the trust deeds.

I categorically deny that I had any such intent – at all times I have endeavoured to act professionally and to the highest standards. It is absurd to suggest otherwise. In fact I only met Mr Pugachev once for about 15 minutes in late 2013 and this was just a general introduction. He never issued or gave me any directions about the trusts.

I was never directly engaged by Mr Pugachev to prepare the trusts. The instructions came from a company and individuals who clearly had authority to convey the details of who were to be trust beneficiaries and the assets to be held by the trusts. I have formed many trusts on the basis of similar instructions. It is normal practice for trust lawyers like myself.

I certainly had no reason to doubt that Ms Alexandra Tolstoy in one trust & her three young children in all trusts were important beneficiaries. Unfortunately one of the sad outcomes of this decision, if it stands, is that this claim by the Russian state means Ms Tolstoy and her young children will lose the home they are living in and any financial support.

These trusts were governed by New Zealand law. Yet the English Judge has disagreed with a key decision of New Zealand's Justice Heath that the power to remove trustees in these deeds was subject to the control of the court and instead found that there was no such control. I think New Zealand trust specialists will undoubtedly be very surprised at that conclusion.

The decision does not make it clear that in 2014 after the claimants had got an order freezing Mr Pugachev's assets and an order requiring him to disclose confidential information about the trusts, the New Zealand court under Justice Andrews heard an application by the trustees who were seeking to protect the interests of Ms Tolstoy and her children. Importantly the New Zealand court authorised the trustees to take advice in England and act on it. The trustees did so and thereafter acted solely on that advice.

Importantly my witness statements in the application made in London for the trustees' application were prepared on advice of the trustees' legal advisers in London in response to allegations made by the applicants. They were not intended to mislead. London counsel who approved the statements would never have contemplated such a thing.

The trustees made a second application to the New Zealand court after the decision was taken to dismiss one of the directors who was un-co-operative in assisting the trustees to comply with orders of the English court. In response Mr Pugachev retaliated by firing the trustees. This is the decision of Justice Heath an important part of which the English Judge has disagreed with.

The trusts were properly administered at all times. Due diligence was performed in respect of the assets to go into the trusts and in one case an asset was rejected. The highest standards of probity and care were exercised in relation to the administration of these New Zealand trusts.

In early 2014 I learned of claims against Mr Pugachev. I immediately sought and received a lengthy report from his solicitor advising that there was no substance to the claims which were politically motivated. I had no reason to disbelieve that legal counsel and thus I saw no legitimate reason to terminate the trusteeships.