

NIGEL

Milton Grundy

The e-mail arrived at the end of March. The message was the one he had been expecting – *I have sold my London flat and I am spending the next 13 months in my house here in Barbados. Please find me a purchaser for my interests. Yours, Nigel.* Geoff knew exactly what he was talking about, but it was nearly ten years since he had set up the transaction, and he now had to re-familiarise himself with it.

Nigel had invented and patented a computer programme, and his backers had established a company to exploit it. He had granted a ten-year licence of the patent to the company and settled the benefit of this agreement on trust for himself for 21 years and subject thereto as he might appoint (with trusts in default) – a classic Thin Trust. He had entered into a consultancy agreement, to provide the company for ten years with the benefit of his expertise, and into an R&D agreement, undertaking to license to the company any patented improvements or modifications to his invention made during that period. He settled the benefit of the consultancy agreement on trusts for his nephews and nieces on his father's side of the family, reserving an overriding power, exercisable during his lifetime, to appoint trusts in his own favour, and he settled the benefit of the R&D agreement on trusts for his nephews and nieces on his mother's side, again reserving an overriding power for himself. The consideration payable under the three agreements was to be an amount in the aggregate equal to 60 per cent of the gross receipts of the company in excess of £50,000 each year, and at the end of each year the 60 per cent was to be placed on deposit in a separate account earmarked for the purpose – the interest on the deposit being treated as increasing the amount of the aggregate consideration payable. If in any year the gross receipts of the company fell short of £50,000, the consideration was to be reduced by 60 per cent of the shortfall and the deposit reduced accordingly. The amount due from the company was to be computed and paid at the end of the ten-year period, and it was to be divided between the three trusts in a manner to be agreed between them and in default of agreement in the manner determined by a Protector (Nigel's uncle, in the first instance), who was to have regard to the needs of Nigel and to those of the nieces and nephews on both sides, without regard to the overriding power.

Up to now, all the parties had been resident in the United Kingdom. Geoff had been content to advise the trustees of each of the three settlements that during the ten-year period they had nothing to return for UK tax, and he was equally content to advise the company to deduct the whole of the aggregate consideration payable to the three trusts in computing the company's profits for tax purposes, on the grounds that the company knew it owed the whole amount to Nigel and the trustees, although it did not know how much it owed to any one of them. Nigel indulged in some rather dangerous sports, and if he had had a fatal accident during the last ten years, his nephews and nieces would have benefited – with little or no inheritance tax to pay. But he had survived, and he now wanted to cash in his chips. Which is what he wanted Geoff to arrange.

Geoff decided that what he needed was a purchaser. If Nigel exercised his overriding powers, so that the settlements for nieces and nephews became Thin Trusts for himself, then while none of the trust funds and none of Nigel's interests – taken separately – were of any value, the three interests taken together had an ascertainable

value, and could be sold. The purchaser needed to have enough money to buy them and enough brains to see that he could collect the aggregate sum payable by the company and make a nice little profit for an afternoon's work. Geoff foresaw no difficulty: there must be hundreds of finance companies no more than a stone's throw from the City Road, who would leap at the opportunity. But he was wrong. It took him a week to find a company to do the deal, and the nice little profit turned out to be a nice big profit. Still, Nigel thought the price was worth paying.