

with order made in *Prest* where the companies were found to hold the properties on trust for the uncommunicative husband, and they (*qua* nominee/ bare trustee) were ordered to transfer the properties to the wife. I shall so order.

Trust issue (3) - W's application to set aside the March 2015 disposition

92. W seeks an order setting aside the Deed of Trust dated 17th March 2015.
93. The timing is telling. The Deed of Trust dated 17th March 2015 was executed four days before H signed his first witness statement in the present proceedings. By the Deed of Trust, H purported to assign to the Trust the entire 100% issued share capital in the three offshore holding companies (*i.e.* A Ltd, M Ltd and L Ltd) relating to the yacht, plane and helicopter. In addition, H also assigned to C Ltd his 60% shareholding in a Cypriot company, S Ltd, which held a Moscow property. (I shall refer collectively to these as “the March 2015 Companies”).
94. On the same day, 17th March 2015, H executed a document described as “*Declaration of Trust*” by which he purportedly assigned to C Ltd as Trustee of the Trust his right, title and interest of whatsoever nature in all the March 2015 Companies. H also declared himself to be Trustee of the March 2015 Companies in favour of the Trust C Ltd and undertook to deal with the March 2015 Companies only as directed by C Ltd (a company of which, of course, he was sole director). In my view, it is clear that H was attempting to hide the March 2015 Companies in an offshore trust because he was faced with W’s imminent claims in these proceedings. (I shall refer to this as “the March 2015 Disposition”).
95. On 21st March 2015, only four days after effecting the March 2015 Disposition, H signed a witness statement in support of his application for a stay of these (English) proceedings in favour of Russia on the grounds of *forum non conveniens*. In his witness statement, H asserted that he was merely “... *one of a number of discretionary beneficiaries of an offshore trust which is beneficially interested in the ... assets [of the March 2015 Companies]...*”. It is clear that this was a transparent attempt to put the assets of the March 2015 Companies out of his (legal) reach and to inhibit W’s ability to claim or include those assets as part of the marital asset reckoning or, at least, to make enforcement of W’s claims more difficult.

Section 37 MCA 1973

96. The March 2015 Disposition falls to be considered under s.37 MCA 1973. Section 37 gives rise to a legal presumption in relation to such dispositions made within the past three years. In *AC v DC (No 1)* [2013] 2 FLR 1483, Mostyn J usefully summarised the operation of s.37:

“[9] For W's application to succeed the following has to be demonstrated:
(i) That the execution of the [disposition] was done by H with the intention of defeating her claim for financial relief. This is presumed against H, and he has to show that he did not bear that intention... The motive does not have to be the dominant motive in the transaction; if it is a subsidiary (but material) motive then that will suffice... .