There are situations where trust property passes into the hands of a third party ‘stranger’—a person other than a trustee or beneficiary of the trust. Personal and proprietary remedies against strangers are particularly valuable where the claimant cannot be satisfied with actions against the original trustee. The claimant has to make choices not only in relation to the final remedy, but also when required to ‘elect’ between evidential alternatives. The tracing process, which supplies the evidence that a stranger has received trust property, may require the claimant to make such a choice. This chapter deals with tracing and ‘remedies’, focusing on how a claimant, typically a beneficiary of the trust, is able to trace trust property into the hands of a stranger and recover it by means of a proprietary remedy.
14. Tracing and recovering trust property

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