



Guernsey Financial
Services Commission

***The Financial Services
Commission (Bailiwick of
Guernsey) Law, 1987 (“the Financial Services
Commission Law”)
The Regulation of Fiduciaries, Administration
Businesses and Company Directors, etc. (Bailiwick
of Guernsey) Law, 2000 (“the Fiduciary Law”)***

***The Criminal Justice (Proceeds of Crime)
(Financial Services Businesses) (Bailiwick of
Guernsey) Regulations, 2007, (“the Regulations”)***

***The Handbook for Financial Services Businesses
on Countering Financial Crime and Terrorist
Financing (“the Handbook”)***

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Public statement relating to:

Peter Alan Lainé of Mulsanne, Rue D’Aval, Vale, Guernsey GY6 8LD

***Robert John du Feu of Apartment 4, Aldbrook, Saumarez Street, St
Peter Port, Guernsey GY1 2PU, and***

***Ian James Banneville of Kilauea, Route des Coutanchez, St Peter Port,
Guernsey GY1 2TX***

Summary

On 24 May 2010 the Guernsey Financial Services Commission (“the Commission”) decided:

- 1. to impose financial penalties of £14,000 each on Mr Lainé and Mr du Feu and £7,000 on Mr Banneville (“the Directors”) under section 11D of The Financial Services Commission Law; and*
- 2. to make this public statement under section 11C of the Financial Services Commission Law.*

The Commission made these decisions having concluded that the Directors had failed to fulfil certain requirements imposed on them under the Fiduciary Law, the Regulations and the Handbook and to ensure, during their respective periods of appointment, that the fiduciary business referred to below fulfilled the requirements applicable to it.

Background

The background to this decision is the Directors’ conduct in relation to the fiduciary business of Kingston Management (Guernsey) Limited (now in administration) and its joint fiduciary licensees Kingston Trustees Limited, Wessex Holdings Limited, Oxford Investments Limited, Kendal Limited and Hawkshead Investments Limited (together referred to as “Kingston”).

Kingston was formed in 1989 by a UK firm of accountants, which was its exclusive source of business introduction. Mr Lainé and Mr du Feu were appointed as directors in 1989. In October 2007, Mr

Banneville was recruited, and he was appointed as a director in the following month. Mr du Feu resigned as a director with effect from 31 December 2008.

Following the introduction of the Fiduciary Law, the Commission granted Kingston a full fiduciary licence in November 2001.

In February 2009, following an onsite inspection, the Commission raised serious issues over Kingston's compliance with the requirements of the Fiduciary Law, which had applied over the previous 8 years, and of the Regulations and the Handbook, which came into force in December 2007. The Commission was particularly concerned about management, control and compliance within Kingston and its handling of some high risk relationships.

Discussions ensued between the Commission and Kingston about further investigation and remedial action, but the Directors felt unable to obtain co-operation and financial resources from its shareholders to secure the necessary changes within Kingston's operations.

Mr Lainé and Mr Banneville, as the current directors, applied to the Royal Court of Guernsey for an administration order in relation to Kingston Management (Guernsey) Limited, and on 8 September 2009 the Royal Court granted the application and appointed Alan Roberts and Adrian Rabet of Begbies Traynor as joint administrators.

Reasons

The Commission has not imposed any sanction in relation to Kingston itself, which is in administration and intends to surrender its fiduciary licence as soon as possible. Both the process of regulatory action and any resulting regulatory sanction could only detract from the joint administrators' work in administering and transferring client structures.

However, irrespective of Kingston's position, the Directors are, during the varying times of their appointments, responsible for the conduct of its business and this statement and the financial penalties recognise that responsibility. The Directors failed to ensure that Kingston:

- 1. exercised adequate control over, and held adequate information on, trusts and companies under its management, as a fit and proper licensee is required to do under paragraph 5(3)(b) of Schedule 1 to the Fiduciary Law,*
- 2. undertook a risk assessment before forming a business relationship as required by Regulation 3(1)(c),*
- 3. undertook customer due diligence on beneficiaries of structures to which Kingston provided services constituting regulated fiduciary activities as required by Regulation 4(1)(3) and earlier provisions, verified the identity of beneficial owners of a company as required by Rule 106 of the Handbook, undertook customer due diligence on the donees of powers of attorney as required by Rule 112 of the Handbook, and carried out enhanced customer due diligence on beneficial owners as required by Regulation 7(1), and*
- 4. performed ongoing and effective monitoring of business relationships, as required by Regulations 11(1)(a) and (b).*

These failings were noted on specific files and this statement does not suggest that they were endemic throughout Kingston's business. In order to ascertain whether that was the case, the Commission required Kingston to obtain an independent review of all its files, but administration intervened.

This statement does not amount to a public statement about the conduct of Kingston's parent and does not reflect its views.

Mitigating factors

In reaching these decisions the Commission has taken into account that:

1. *Mr Banneville did not become a director of Kingston until November 2007, six weeks before the Regulations and the Handbook came into effect, and from that time made efforts to change Kingston's culture and procedures.*
2. *Mr du Feu was a founding director but has not served as a director since December 2008.*
3. *In August 2009 the board concluded that the task of meeting the licensing criteria and the requirements of the Regulations and the Handbook, for the type of client-base Kingston held, would require financial resources which Kingston could not obtain from its shareholders. The directors took a responsible course of action in seeking an administration order and, once that had been made, worked to assist the joint administrators to service and transfer client structures.*
4. *The Directors experienced particular difficulties in Kingston's relationship with its parent and were unable to obtain the parent's cooperation in improving standards or obtaining the additional resources needed to service its client-base properly.*

25 May 2010
Stephen Trevor

*Director of Fiduciary and Intelligence Services
Guernsey Financial Services Commission*