



Guernsey Financial
Services Commission

« **BACK** Mr Rudiger Michael Falla, Mr Richard Garrod, Mr Leslie Hilton, Mr Geoffrey Robert Le Page, Mr Kenneth Richard Leslie Forman

The Financial Services Commission (Bailiwick of Guernsey) Law, 1987 as amended ("the Financial Services Commission Law")

The Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2000, as amended (the "Fiduciaries Law")

The Protection of Investors (Bailiwick of Guernsey) Law, 1987 as amended (the "POI Law")

The Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002 (the "IMII Law"),

The Banking Supervision (Bailiwick of Guernsey) Law, 1994 (the "Banking Law") and

The Insurance Business (Bailiwick of Guernsey) Law, 2002 (the "Insurance Business Law") (together "the Regulatory Laws")

The Criminal Justice (Proceeds of Crime) (Financial Services Businesses) (Bailiwick of Guernsey) Regulations, 2007 as amended (the "Regulations")

The Handbook for Financial Services Businesses on Countering Financial Crime and Terrorist Financing (the "Handbook")

Mr Rudiger Michael Falla - Executive Director ("Mr Falla")

Mr Richard Garrod - Executive Director ("Mr Garrod")

Mr Leslie Hilton - Executive Director ("Mr Hilton")

Mr Geoffrey Robert Le Page - Executive Director ("Mr Le Page")

Mr Kenneth Richard Leslie Forman - Non-Executive Director ("Mr Forman") (together "the Directors")

On 24 August 2015 the Guernsey Financial Services Commission ("the Commission") decided:

- to impose financial penalties of £50,000 under Section 11D of the Financial Services Commission Law on each of Mr Falla, Mr Garrod, Mr Hilton and Mr Le Page;*
- to impose a financial penalty of £10,000 under Section 11D of the Financial Services Commission Law on Mr Forman;*
- to make orders under the Regulatory Laws prohibiting Mr Falla, Mr Hilton and Mr Le Page from performing the functions of director, controller, partner and money laundering reporting officer in relation to business carried on by an entity licensed under the Regulatory Laws for a period of 5 years from the date of this public statement;*
- to disapply the exemption set out in Section 3(1)(g) of the Fiduciaries Law in respect of Mr Falla, Mr Hilton and Mr Le Page from the date of this public statement;*
- to make this public statement under Section 11C of the Financial Services Commission Law.*

The Commission considered it reasonable and necessary to make these decisions having concluded that the Directors failed to fulfil the fit and proper requirements as set out in paragraph 3 of Schedule 1 (minimum criteria for licensing) to the Fiduciaries Law.*

The background to these decisions is as follows.

Messrs Falla, Garrod, Hilton and Le Page are executive directors and controllers of Confiance Limited ("Confiance"), a company licensed under the Fiduciaries Law. Mr Forman is a non-executive director

Article Info

DIVISION

General; Banking; Insurance; Investment; Fiduciary; Conduct

ARTICLE TYPE

News; Public Statement

FIRST PUBLISHED

26/10/2015

Contact

TELEPHONE

+44 1481 712706 / 712801

Telephone calls are recorded.

FAX

+44 1481 712010

CONTACT US »

of Confiance.

Confiance was visited by the Financial Crime Supervision and Policy Division of the Commission in April 2015. The findings from the visit were referred to the Enforcement Division.

Significant failings were identified as a result of the April 2015 visit regarding Confiance's anti-money laundering and countering terrorist financing systems and controls. These failings, if they had materialised, could potentially have caused considerable reputational damage to the Bailiwick of Guernsey. In particular, the Commission found that the Directors had failed to ensure that Confiance:

- undertook and regularly reviewed relationship risk assessments in accordance with Regulation 3(2);*
- always took reasonable measures to identify and verify customers, beneficial owners and underlying principals, persons purporting to act on behalf of the customer or obtain information on the purpose and intended nature of each business relationship, as required by Regulation 4;*
- always undertook enhanced customer due diligence on customers assessed as high risk, as required by Regulation 5;*
- performed ongoing and effective monitoring of its existing business relationships, as required by Regulation 11; and*
- had appropriate and effective procedures and controls to ensure compliance with requirements to make disclosures under the Disclosure (Bailiwick of Guernsey) Law, 2007 and the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002, as required by Regulation 12(f).*

The Commission had previously visited Confiance in 2010 and identified similar failings as those identified in the April 2015 visit. Confiance was required to undertake remedial action following the 2010 on-site visit.

A further on-site visit in 2013 resulted in the appointment of an independent person to review Confiance's monitoring arrangements and governance arrangements against the Finance Sector Code of Corporate Governance. The independent review identified a number of issues to be remedied.

The April 2015 on-site visit identified that findings from the 2010 and 2013 visits had not been actioned appropriately in all instances.

As a consequence of the above failures identified during the April 2015 visit and the failure to address the issues highlighted following the on-site visits in November 2010 and 2013, the Directors have not taken responsibility for the review of Confiance's compliance with the requirements of the Regulations, as required by Regulation 15.

By failing to ensure that Confiance's policies and procedures for forestalling, preventing and detecting money laundering and terrorist financing are appropriate and effective, the Directors have failed to understand the legal and professional obligations incumbent upon them. In addition, by failing to remedy deficiencies identified in 2010 and 2013, the Directors have acted without sound judgement and have not fulfilled their responsibilities with the diligence expected of directors.

Mitigating Factors

At all times the Directors co-operated fully with the Commission. The Directors agreed to settle at a very early stage of the process and this has been taken into account by applying a discount in setting the financial penalties.

** And also Schedule 4 to the POI Law, Schedule 4 to the IMII Law, Schedule 3 to the Banking Law and Schedule 7 to the Insurance Business Law, sets out the minimum criteria under these laws.*