



Guernsey Financial  
Services Commission

« **BACK** Provident Trustees (Guernsey) Limited

*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 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")  
Provident Trustees (Guernsey) Limited ("the Licensee")*

*Mr William Hunter ("Mr Hunter")*

*Mr Andrew King ("Mr King")*

*Mrs Lesley Chapman ("Mrs Chapman") (collectively "the Directors")*

*On 18 January 2016 the Commission decided:*

- to impose a financial penalty of £42,000 under Section 11D of the Financial Services Commission Law on the Licensee;*
- to impose a financial penalty of £18,375 under Section 11D of the Financial Services Commission Law on Mr Hunter;*
- to impose financial penalties of £10,500 under Section 11D of the Financial Services Commission Law on each of Mr King and Mrs Chapman;*
- 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 Licensee and the Directors failed to fulfil the minimum criteria for licensing as set out in Schedule 1 to the Fiduciaries Law due to failure to implement appropriate and effective policies, procedures and controls to mitigate the financial crime risks to which the business could be exposed.*

*In addition, the Commission considered that the Directors have demonstrated a lack of probity, competence and soundness of judgement which is taken into account when considering whether a director is a fit and proper person in order to meet the minimum criteria for licensing set out in Schedule 1 to the Fiduciaries Law. The fact that Mr Hunter acted for a period as the Licensee's Compliance Director and Money Laundering Reporting Officer resulted in a higher financial penalty being imposed on him.*

### **Background**

*The Licensee was visited by the Commission's Financial Crime Supervision and Policy Division in October 2014 and as a result was subsequently referred to the Enforcement Division who conducted a further on-site visit in January 2015.*

*Fundamental failings were identified as a result of these visits regarding the Licensee's anti-money laundering and countering terrorist financing systems and controls, particularly with respect to relationships assessed as high risk involving Politically Exposed Persons ("PEPs") or linked to sensitive jurisdictions. These failings, if they had materialised, could potentially have caused considerable*

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*reputational damage to the Bailiwick of Guernsey.*

*The failings were compounded by the fact that the Commission had previously visited the Licensee in 2009 and 2011 and similar failings were identified, despite the Licensee having been required to undertake remedial action following the 2009 on-site visit.*

*It was identified that the remedial measures committed to as a result of previous visits had not been actioned appropriately in all instances. The Licensee's policies and procedures established to forestall, prevent and detect money laundering and terrorist financing had not been implemented effectively and the result was that the Licensee and, as a consequence the Bailiwick were exposed to the risks of money laundering.*

*As a consequence of the Licensee's failure to prevent a recurrence of the issues highlighted following the on-site visit in 2009, the Commission concluded that the Directors have not fulfilled their corporate governance obligations as required by Regulation 15 of the Regulations.*

*The Commission found that:*

- The Licensee failed to conduct customer due diligence ("CDD") in accordance with the Regulations and the rules in the Handbook with regards to identifying and verifying all customers, in particular individuals to whom a Power of Attorney had been granted and potential beneficiaries of trusts; in addition, the Licensee acted on instructions from clients without full CDD being conducted on all relevant parties to the relationship;*
- Despite having established policies and procedures to manage high risk relationships, the Licensee failed to demonstrate that adequate enhanced due diligence had been conducted on high risk clients, particularly with regard to clients who were PEPs or High Profile Individuals and had links to sensitive jurisdictions and those known to be associated with bribery and corruption risks. Where enhanced due diligence was ineffective, adverse information relating to clients was not picked up by the Licensee, leading to increased exposure to the risk of money laundering;*
- The Licensee failed to ensure that the requirements of GFSC Instruction (Number 6) for Financial Services Businesses dated 11 November 2009 were applied fully to its existing customers by failing to satisfy itself that CDD information appropriate to the assessed risk was held in respect of each business relationship;*
- The Licensee failed to ensure that the requirements of GFSC Instructions (Numbers 9-12) for Financial Services Businesses in force between 9 March 2010 and August 2011 were applied to its business by failing to ensure that enhanced due diligence was undertaken and special attention given to an existing business relationship;*
- The Licensee failed to effectively monitor on-going activity which led to the inability to effectively review risk assessments;*
- The Licensee failed to effectively scrutinise unusual transactions;*
- The Licensee failed to evidence its consideration of the suspicion reporting requirements on several occasions as well as documenting reasons for delays in making disclosures to the Financial Intelligence Service;*
- The Directors allowed themselves to be led by dominant clients and the client directors placed reliance upon conversations and meetings with clients in person as sufficient to satisfy enhanced due*

*diligence requirements, particularly in regard to source of funds ("SOF") and source of wealth ("SOW") where the client was classed as high risk but documentation was not obtained to evidence that SOF/SOW had been established.*

*As a result, it is the conclusion of the Commission that the business of the Licensee has not been conducted in a prudent manner, having taken into account that its systems and controls did not enable it to comply with its duties under the Regulations and Handbook as set out in Schedule 1 to the Fiduciaries Law.*

#### *Mitigating Factors*

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

#### *Notice to clients of Provident Financial Services Limited*

*The enforcement action referred to in this statement does not relate to the services provided by Provident Financial Services Limited which was subject to an on-site visit from the Commission in October 2014 but which was not referred to the Enforcement Division.*

*End of statement*