

STATES OF JERSEY



REMOVAL OF MATERIAL FROM WEBSITE: SENATOR E.P. VIBERT

**Lodged au Greffe on 22nd March 2005
by the Economic Development Committee**

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

whereas the draft Code of Conduct for States members (P.33/2003) approved by the Assembly on 29th April 2003 provides that ‘Members should at all times treat other members, officers, and members of the public with respect and courtesy and without malice, notwithstanding the disagreements on issues and policy which are a normal part of the political process’, to request Senator E.P. Vibert–

- (1) to observe the requirements of the draft Code of Conduct in respect of any material placed on websites controlled by him, and in particular –
 - (a) to remove from www.jerseyfsc.com and any other website controlled by him the current unsubstantiated statements relating to the Director General and Deputy Director General of the Jersey Financial Services Commission as detailed in Appendix 1 of the report dated 22nd March 2005 within 48 hours of this proposition being adopted by the States Assembly;
 - (b) to refrain from using www.jerseyfsc.com and any other website under his control to make allegations relating to the Director General and Deputy Director General of the Jersey Financial Services Commission and any other public officer without first raising and substantiating such allegations through the appropriate channels that are available to him and any other States Member;
- (2) to refrain, while he is a member of the States, from using www.jerseyfsc.com and any other website under his control which is capable of being confused with the website operated by the Jersey Financial Services Commission.

ECONOMIC DEVELOPMENT COMMITTEE

REPORT

1. Introduction

This Report and Proposition is brought to ask Members to consider whether material on various websites owned or controlled by Senator E.P. Vibert, and relating in particular to the Jersey Financial Services Commission and its officers for whom the Committee has political responsibility, conforms to the requirements of the draft Code of Conduct for States Members approved by the States on 29th April 2003. It explains the background to such material and questions whether it is appropriate in certain circumstances for such material to be used for continuing publication and in other respects whether a Member of the States, having regard to the draft Code, should be associated with such websites.

2. Background

In December 2004, Senator Vibert acquired two websites, www.jerseyfsc.com and www.jfsc.com.

Much of the background to the acquisition of the websites, as set out in this Report, is based on a summary of the findings of the Royal Court expressed in its judgment of 6th January 2005 in the matter of an application by the then owner of the sites for a judicial review. This judgment is a matter of public record.

The websites first came to prominence in November 2004. At that time these websites belonged to an employee of a local trust company operating in the Island. These websites published a number of allegations in respect of the Commission and officers of the Commission, most particularly the Director General of the Commission, Mr. David Carse. Mr. Carse asked that the websites be closed down, something the owner refused to do. There then followed correspondence between Mr. Carse and the owner's employer, the effect of which was that, in the words of the Court –

“it appears that the applicant [the owner] was given an ultimatum by [the employer]: if the websites were not closed down, his employment would be terminated.”

The Court went on to consider the actions of the Commission in relation to the website and expressed the view that the website contained allegations that “*were certainly scurrilous*”, that the Commission had a statutory duty “*to protect and enhance the reputation and integrity of the Island in commercial and financial matters*”, and that Mr. Carse had “*acted with moderation and complete propriety*” in seeking to have the website shut down.

The websites were not, however, shut down. They were re-opened on 12th January 2005, and each site now states that it is owned by Senator Vibert. On a related website, www.tedvibert.com, Senator Vibert sets out his view of the matter –

“Back in December 2004, I was told that the JFSC had put very tough – and in my view disgraceful – pressure on a local Trust company to force one of their employees to stop publishing a website (jfsc.com) on which information about financial scandals involving Jersey were published. The trust company involved had already been led a merry dance by JFSC officials and after four years, was still awaiting a full license.”

Senator Vibert uses the opportunity to make value judgments in relation to the Commission's treatment of a trust company, no doubt in full knowledge that, under the statutory duties of confidentiality imposed upon the Commission, it would be impossible for the Commission to respond to any such specific allegation. It should also be noted that through the continuing publication of the jfsc.com website Senator Vibert appears not to have regard for the verdict of the Royal Court, either in relation to the damage the website might cause to the reputation of the Island or the ‘*scurrilous*’ nature of its contents.

(i) Statements in relation to the Director General and Deputy Director General of the Jersey Financial Services Commission

The most serious allegations made against the Director General of the Commission are in relation to certain matters that arose while Mr. Carse was Deputy Chief Executive for the Hong Kong Monetary Authority. Examples of the pages from the website www.jerseyfsc.com setting out these allegations are annexed in Appendix 1 of this report.

The chief allegation is made by innuendo. The site refers to a “report” that is actually an article in BusinessWeek stating that a significant sum of money went missing from a Chinese bank between 1992 and 2001, and that some of the proceeds were found in Hong Kong. The bank in question was located in China, was not regulated by the Hong Kong authorities and yet the clear implication on the website is that Mr. Carse was dismissed from the Hong Kong Monetary Authority for perceived failures in his duties. Following a factual report in relation to Mr. Carse’s decision to leave the Hong Kong Monetary Authority, the following comment is made –

“Now to me this looks suspicious. A report criticising the ineptitude of certain people in their job the Hong Kong Monetary Authority is published in 2002. Then the top 3 people of the Hong Kong Monetary Authority “Resign” at the end of 2002. Hmmm?”

Mr. Carse retired from the Authority in the normal course after 12 years to return to the U.K. He enjoyed distinguished career and was awarded the OBE and Hong Kong’s Silver Bauhinia Star.

The content of this website is, in part, puerile. For example, a letter from Joseph Yam, chief executive of the Hong Kong Monetary Authority is introduced by a link which reads –

“Letter Ref Mr. Carse Letter from a Hong Kong regulator saying what a good boy he is.”

This is a letter from an internationally respected regulator in which he describes Mr. Carse as having had “an impeccable career” and states that the Hong Kong Monetary Authority was extremely sorry to lose his services. It is treated as an opportunity to make a childish joke at the expense of Mr. Carse’s name and is effectively dismissed without comment. There is no sense of objectivity in the presentation of material on this website: instead, it is simply a direct attack on a public officer.

It is not difficult to imagine what view is taken of Jersey as a jurisdiction when a website in the name of a Senator of the States is so disparaging not only of Mr. Carse but also of the Chief Executive of the Hong Kong Monetary Authority.

A further example of the type of innuendo which permeates the sites operated by Senator Vibert is the following –

“ we are also receiving information about Mr. David Carse from Hong Kong, from the people he regulated. It seems that the Hong Kong industry hold as much regard for David Carse as the Jersey industry holds for Helen Hatton the Deputy Director General.”

Again, without evidence or supporting material, it is apparent that the statement can be viewed as no more than a combination of the author’s malice and innuendo. The author if he was interested in producing a balanced view would have referred to an article published in Hong Kong in September 1997 headlined “why David Carse is banker of the year.” To quote – “During his six years in Hong Kong he has managed to change people’s perception of central bankers. He is not the hateful almighty type who imposes rule after rule to rein in an unscrupulously mercenary banking industry. If anything, he has become commercial bankers’ friendly alter-ego ready to listen to their grievances and always vigilant to caution them against possible missteps. This does not mean he has loosened the regulatory grip. On the contrary, the much improved regulatory framework, much of this the result of his own work, has greatly improved confidence domestically and internationally”. The same could be said about his role in Jersey. Little wonder that Hong Kong were sorry to see him go, why he remains on an advisory committee for the People’s Republic of China and why the international regulatory community say how fortunate Jersey is to have his services.

The comments in relation to the Deputy Director-General, Mrs. Hatton, have been particularly unpleasant and inappropriate. Many of the comments on Senator Vibert's site were extremely offensive but it was only when the JEP drew attention to the content of the website, a website over which the Senator has complete editorial control, was the offensive material removed. This should not disguise the fact that a website owned by a States Member was and continues to be used to publish comments of a sexual nature in relation to a public servant. She is referred to, within the website, by phrases such as "dat ginger hottie" and "dat sultry temptress". The website has encouraged people to comment upon Mrs. Hatton, and offensive material was posted. It must, at the very least, have been a misjudgement on the part of Senator Vibert to allow and to continue to allow a situation to arise whereby he provides a public platform for such offensive material.

The other source of allegations against Mrs. Hatton concerns the circumstances under which she purchased property in the Island. Mrs. Hatton was employed by the Commission on a "(j)" category housing license. As is the usual case in such circumstances, she was unable to purchase a house in her own name and so purchased a house in the name of a company established by the Commission. Although the property is bought by an employer, the financial risk is transferred contractually to the employee, so that the employee pays the mortgage and the employee takes any profit or suffers any loss upon the sale of the property. This is perfectly legal and was carried out with the full knowledge and agreement of the Housing Committee. If this was not already known to Senator Vibert it would have been very easy for him to ascertain the facts from the Housing Department.

Despite the transaction being one which has many counterparts in Jersey, a fact confirmed in writing by the Housing Department, it is reported as follows on the website jfsc.com –

"NOW, we have one of the highest paid employees of the commission who lived in the house wholly owned by the commission as a J Cat employee shortly after arriving in the Island in 1999. The commission obviously charged rent to the employee for the five years they lived there? For a house that size you would expect to be paying close to £2,000 a month, a minimum of £1,000. If the employee paid nothing, then have they advised the tax office that they have received money in kind? and who received the Money from the profit of the sale of the property? As the property was "[Wholly owned by the JFSC](#)", it cannot be been GIVEN to the employee in October 2003 can it? Does the tax office know?"

"If the employer is going to state that they owned the house and the company was a way round owning it, then that is breaking the housing law and they should be brought to task along with whoever allowed this to happen (Commission?, Housing? Senators? etc.)"

Again, the general approach can be seen. A small piece of information is used. An incorrect assumption is made and a malicious conclusion is drawn to the effect that a criminal conspiracy was taking place in which the Commission, States Members and civil servants were all complicit. There was no attempt to offer the Commission the opportunity to present the truth with an obvious conclusion to draw that the website has little interest in the truth which might be rather inconvenient for it. On this basis, the material appears as nothing other than a malicious attempt to spread, by innuendo and supposition, misinformation about a person to whom the author has taken exception.

It should also be noted that both the Director-General and the Deputy Director-General of the Financial Services Commission have written to Senator Vibert to challenge the unfounded allegations against them. These letters are contained in Appendix 2 and include supporting evidence to demonstrate the unfounded nature of the allegations. The letters have been ignored by Senator Vibert and contributors to the websites controlled by him.

(ii) The use of domain names

The address of the 2 websites acquired by Senator Vibert, www.jerseyfsc.com and www.jfsc.com is very close to the address of the website of the Jersey Financial Services Commission, which is www.jfsc.org. The only reason for websites to have these particular addresses, other than coincidence, must be the

prospect of attracting internet users who were seeking the website of the Financial Services Commission.

It should be noted that Senator Vibert already has a website where his views are made clear to those who want to read them. It is not apparent why he needs 2 more websites in which he can express his views.

The use of websites for political ends is likely to become increasingly common. The Assembly is asked to consider whether it is appropriate for a Member to own a website which is certainly capable of being confused with the name of an entity with which that Member has no connection but whose principal purpose appears to be the aim of attacking the latter. If Members do find it acceptable for any other Member to use such websites in the specific case of the Commission, should that Member alternatively be permitted to use a website that is capable of being confused with the name of a private business, a private individual, another States Member – with the view solely to attack and discredit that person? To deny this possibility would not be an attack on anyone’s freedom of speech. However, in the interests of the integrity of this Assembly it is surely important to affirm that a Member may not use websites in a deceitful manner.

Senator Vibert sets out a defence on his website to the use of the domain name “jerseyfsc.com” and “jfsc.com”. That defence reads –

“It is clear that the JFSC failed to register a whole series of domain sites involved around the letters jerseyfsc or jfsc. If it wished no one else to use these initials they should have registered them.”

It might be expected, if the Senator had the wider interests of the Island at heart, that having found that this domain name was available he would have joined with the Financial Services Commission in ensuring that the names were acquired and protected from misuse.

It should be noted that while the Senator is unconcerned that the use of the jerseyfsc and jfsc names are likely to cause confusion among those seeking the Commission’s website, he ensures that before anybody can enter his own website, jerseyfsc.com, that person is required to agree to certain terms. One of those terms is that –

“The term JerseyFSC is a service mark of jerseyfsc.com. The Site’s logo, domains, service marks, and trademarks may not be used publicly except with the Site’s written permission. We aggressively defend our intellectual property rights. Other manufacturers product and service names referenced herein may be trademarks and service marks of their respective companies and are the exclusive property of such respective owners. The Sites marks may not be used publicly except with express written permission from the Site, and may not be used in any manner that is likely to cause confusion among consumers, or in any manner that disparages or discredits the Site.”

Senator Vibert clearly believes that while he is entitled to “aggressively defend” the name of his website in order to ensure nobody establishes a similar website that may “disparage or discredit” his site, the Commission should not be accorded the same freedom.

3. Points for consideration

(i) Issues of free speech

The matter before the States is indeed one relating to free speech. However, the context for this needs to be clearly understood.

All conscionable people understand the need to ensure room for free speech in a genuinely democratic society. It is, in many respects, the very cornerstone itself of democratic society.

Free speech also works 2 ways. The right of individuals to raise matters, criticise others and provoke debate and the right of individuals to enjoy freedom from malicious or damaging material, either express or implicit, about them and their integrity in the absence of clear evidence which might sustain the veracity and relevance of such material. The merits of such competing interests in specific cases may in most circumstances only be decided in the Courts but the principle of seeking a balance between these competing interests should inform this case, particularly where a defence the Senator constructs for his use of his website in the manner described is founded on his right to free speech.

Accordingly, the principal issue for debate is not ultimately whether Senator Vibert has the right to criticise individuals either on his website(s) or elsewhere. It is for debate, if such criticism takes the form of allegations, or allegations inferred or construed by innuendo, whether those criticisms and/or allegations should at the very least first be substantiated evidentially through channels available to the Senator before they are published in the public domain. This is all the more relevant when the author of such material in the public domain is a Senator of the States.

(ii) Available channels of information for verification of matters pertaining to public officers

Channels available to the Senator in this case to substantiate the assertions in the websites include but are not restricted to –

- Direct approach to the President of the Economic Development Committee, or the Chairman of the Financial Services Commission.
- Written or Oral questions of the Economic Development Committee or any other Committee in the States Assembly.
- Information sought from all other public bodies, including in this instance the Jersey Financial Services Commission, where an offer to meet Senator Vibert has been made by the Chairman of the Commission and remains open to discuss his specific concerns (see Appendix 3).
- Other public agencies such as, in this instance the Hong Kong Monetary Authority, the Jersey Housing Committee and Housing Department and, in respect of the recruitment process for David Carse, the Jersey Appointments Commission
- The States Assembly, acting as is the custom ‘in camera’ for discussions relating to recruitment matters and relating to the fitness of individuals to be appointed to public office or to continue to hold public office.

None of these channels have been used – certainly not to their full extent – in this instance.

A further interesting question is to compare the disclosure standard used for debate relating to recruitment matters and relating to the fitness of individuals to be appointed to public office or to continue to hold public office within the States compared to that being deployed by the Senator through his website. In the former instance the person concerned by the debate has his or her confidentiality protected by the ‘in camera’ nature of discussions. Manifestly, website discussion of the same matters, particularly in the absence of any prior States Assembly discussion, does not sustain such confidentiality. This is an inconsistency that illustrates that the deployment of websites for the purposes used by Senator Vibert in this instance takes him beyond a standard of behaviour to which the States hold themselves. This again raises questions about the respect or lack of it for the standards of behaviour sought by the draft Code of Conduct as they apply in this case.

(iii) Possible damage to the reputation of Jersey institutions and to the Island

Much public debate to date has focused on whether the issues raised so publicly, either directly or implied, by the website material on the recruitment and suitability for office of the Director-General and on the

matter of the housing transaction entered into by the Deputy Director-General are likely to create reputational damage to the Jersey Financial Services Commission, the Island's financial services industry and to the Island itself.

It is reported that Senator Vibert believes that if this episode damages the finance industry, then it must be too fragile to be worth sustaining and defending.

This is not the point as any direct damage to the finance industry would probably show up in the long term and would probably be difficult to track since it would be most likely to take the form of a lower level of new business than might otherwise have been gained due to falling confidence in Jersey and its stability and institutions which might be perceived by external clients and intermediaries or advisers. This is not the real risk, certainly not in the short term.

The primary risk is to the institution of the Jersey Financial Services Commission, the Island's financial services regulator, and through that to the Island's reputation internationally as a well-regulated finance centre upon which the business of those in the finance industry greatly depend. The Island's current reputation in this respect is an excellent one which has been fought for and hard won with considerable effort particularly in recent years.

This reputation was undoubtedly enhanced by the recruitment of David Carse to the post of Director-General in late 2003 since he enjoys an excellent reputation in the eyes of other regulators and departments of government globally as well as in the eyes of industry practitioners both on the Island and externally. The reaction of these international observers to the publication by a Senator of the States of unfounded, allegations whether tacit or direct of Mr. Carse's unsuitability for office as Director-General can be expected to raise questions about the Island's political environment

If, faced with an unwarranted attack on his reputation and integrity the Director-General were to foreshorten his term of office noting that he is already eligible for retirement then additionally the Island will have lost an excellent regulator of worldwide repute for no good reason, weakening the Commission and making the attraction of a successor of equivalent stature very much harder than it should need to be. This can hardly be of benefit to the Island particularly in its ability to discharge its international obligations and to regulate the financial services industry both of which are of primary necessity to Jersey's trading position, observance of high standards and economic development.

The loss of the Director General, should it occur because of the unwarranted attacks on his reputation, can be expected to be followed by the loss of the three eminent persons from outside the island who serve as Commissioners. They accepted the invitation to be involved because of the reputation of Jersey as a quality international finance centre and the presence of a Director General of the standing internationally of David Carse is material to this. The fact that his loss was brought about as a response to the content of a web-site owned and controlled by a member of the island's legislature can be expected to have significant repercussions for the view taken of the island, and particularly by those upon whom the island relies for business.

As the Chairman of the Commission has said "If there are criticisms or allegations that need answering, let them be dealt with in a fair, reasonable and objective way through an informed independent process with which the Commission would be more than happy to participate" – not in the manner perpetrated by Senator Vibert.

(iv) Conformity to requirements of the draft Code of Conduct

It is useful to consider certain postings on the websites controlled by the Senator against the requirement of the draft Code of Conduct for States Members. It will be recalled that these stipulate that members should "at all times treat other States Members, officers, and members of the public with respect and courtesy and without malice, notwithstanding the disagreements on issues and policy which are a normal part of the political process".

First, the wisdom of allowing the public to directly post on a website owned by a States Member must generally be questioned. As an example, on Tuesday 8th March 2005, the following was posted –

“The latest letters against the website (or Ted Vibert) have been from places such as Jersey Finance (who pay for Walker’s holidays to the far east – oops Business trips!)”

This is again an uncorroborated and incorrect statement. It is not made directly by Senator Vibert. Yet it is given credence through being posted on a site that is backed by a States Member. Again, an unchecked allegation is made and those who are the subject of the allegation are given no opportunity to present the truth. Similar allegations are to be found in the same section of the site against private individuals, from employees and directors of private companies to the editor of the Jersey Evening Post.

All these entries are characterised by the same approach: allegations, innuendo and a failure to give the subject of the comments an opportunity to respond.

A final entry worthy of mention is one posted on one of the sites which is linked to the jerseyfsc.com website which purports to be a survey based on the question:

“Who would make a better Chief Minister – Frank Walker or a packet of Durex? An objective analysis.”

Which then goes on to compare and contrast Senator Walker with a packet of Durex and then invites visitors to the site to vote for the alternatives. This Report simply leaves the question to States members whether the advertisement of such an item on a website hosted by a States Senator can do anything other than bring the States generally into disrepute and be anything other than at odds with the draft Code of Conduct?

Whether directly attributable to Senator Vibert himself or arising from other contributors to the site which he is hosting, it seems clear that the whole edifice is doing little to contribute to a climate which treats third parties *with respect and courtesy and without malice.*

Senator Vibert should therefore, be requested to review all material on his various websites, in whichever section posted, to ensure conformity with the provisions of the States draft Code of Conduct or disassociate himself from the sites. It is particularly important to note that what is not being contested is the opportunity of individuals contributing to these sites to hold the views expressed but rather that they should not be, in effect, endorsed by a Senator of the States who owns the site on which they appear. The question is not whether the contributors adhere to the draft Code of Conduct for States members but whether the Senator does.

4. Conclusion

The Committee believe that the actions of Senator E. Vibert are contrary to the standards of fairness and integrity that are required of States members and that he should abide by the Code of Conduct that was adopted by the States on 29th April 2003. It is accepted that the Privileges and Procedures Committee have not brought the Code into effect, however, the code was adopted by 34 votes to 10 (Senator E. Vibert voted “Pour”) and is an endorsement of the standard of behaviour acceptable to the Assembly. It would be inconsistent to ignore the existence of the Code and the Committee believe it is reasonable for the Assembly to request that Senator E. Vibert observe its requirements.

The Committee believe that the statements and allegations made against officers of the Jersey Financial Services Commission should be withdrawn because they are untrue and that he should refrain from making similar statements relating to any public officer on any web site operated by him without first substantiating them through the channels referred to above. Further, the Committee believe that the Senator should cease to operate the www.jerseyfsc.com and www.jfsc.com websites because they cause confusion with the web site operated by the Jersey Financial Services Commission and are clearly intended to disparage or discredit the Commission, which in turn is against the best interests of the Island.

The Committee upholds any individual's right to raise legitimate concerns relating to the work of politicians and public officers, however, this should be done in a responsible manner that upholds the integrity of the States Assembly and to persist in making allegations and innuendo knowing them to be false not only undermines the credibility of the Assembly, but undermines the confidence of the public and those employed either directly by the States or indirectly through associated bodies.

This proposition does not seek to silence criticism of politicians, as this is the nature of politics, it is intended to ensure that public officers are treated with respect and fairness and that the credibility and integrity of the Assembly is upheld.

There are no financial or manpower implications for the States arising out of this proposition.

22nd March 2005.

Items to be removed from the websites

Although all of the items set out above are objectionable, the following should, for the avoidance of doubt, be removed if the proposition is accepted. The numbering adopted in Appendix 1 is adopted here –

1. That section of the article beginning “The \$480 Million missing from China/Hong Kong (2002)” and ending “They are unable to take on new clients, they have lost clients through not having a license”. This section covers allegations concerning Mr. Carse and separate allegations concerning how the Commission acted in a specific case which, under the statutory duty of confidentiality, the Commission is unable to respond to.
2. The entire article.
3. The entire article.
4. Parts of this article are inoffensive. There are sections, however, that make allegations in respect of specific cases to which the Commission cannot respond (e.g. in the opening paragraph). The section entitled “The JFSC failed to register” repeats many of the unsubstantiated allegations found on the jerseyfsc.com site and should be removed. These allegations are repeated in the section entitled “defamed” and should also be removed. The entire section entitled “Mrs. Hatton” should be removed.

Item 1 From jerseyfsc.com

THE JERSEY FINANCIAL SCANDALS COLLECTION

WWW.JERSEYFSC.COM

Last Updated 5th February 2005

Please read our [Disclaimer](#)

Back by Popular Demand
JFSC's [Hangman](#)

The Story about this site is fairly complex and has been published in its entirety on the web site www.jfsc.com Please visit.

Please also check the Weblog, Guestbook, News area and the latest Public Challenge to Mr Carse and the Commission on www.jfsc.com

In order to allow those who cannot differentiate between copied text from other web sites and my own opinions, I have made my personal opinions PINK, questions will be Black. By the way this site is a privately owned website.

[The Billions Missing From Russia](#). Which company did they mention in Section 7?
[Read More Info on the Billions](#) (who was it? are they regulated? how?)
[Reported right round the world](#) Would you like Egg with your face sir?
Now, why am I not surprised that the big players get regulated, even after this?

[The Missing Millions from Poland](#). (who was it? are they regulated? how?)
Could this be another Regulated Jersey Company? Read it and find out!

[80 million Dollars slush fund](#). (millions through a Jersey Regulated Bank)
[More here](#)
Anybody starting to see a pattern here?

[Billion Sani Abacha Case](#) with [out of court settlement](#) from Jersey as conclusion.
Names withheld by JFSC - 6 institutions failed their controls but are still Regulated?

[More from Poland](#)

1 interview with one linked with the above

[id Even More](#) (This guy is a great investigative reporter)
so covers more on the missing millions.

[rsey helps find Tax Evaders](#) **NOT - Human Rights in Jersey? We will have to see.**

he judge has run into the same obstacle with the British isle of Jersey, located in the English Channel, in his quest for information about the transfer of allegedly illegal commissions paid by the organisers of the 1992 World Expo in Seville.

ersey's Attorney General William Bailhache responded to Garzón's petition saying that the clients of 3V Privanza Bank, a branch of BBVA based on the island, "have a legitimate right to privacy in their affairs."

ie Spanish judge reacted immediately, stating that this right "is essential, but cannot be of an absolute and unconditional nature."

it Bailhache argued that giving out information about the movement of money in Jersey would violate international conventions on human rights.

arzón replied that the bank under investigation had distributed brochures to its potential clients specifically inviting them to use its services to escape taxes.

ie Spanish magistrate plans to send a more detailed petition for information to Jersey this week. If he does not obtain the necessary data, Spain's Anti-Corruption Prosecutor will denounce Jersey before the International Financial Action Task Force (IAF) on money laundering charges, legal sources told S.

[ie \\$480 Million missing from China/hong kong](#) (2002) **Seems this was missed by our very own attorney Mr Carse.**

David Carse (57) was Deputy Chief Executive for the Hong Kong Monetary Authority, which he joined in 1993. Prior to that he was Commissioner of Banking in Hong Kong from 1991. He became the director General of Jersey Financial Services Commission on Monday 3 November 2003."



"The Kaiping case casts a harsh light on Beijing and Hong Kong regulators, who allowed the leakage of Bank of China funds to go on for almost a decade without detection. David R. Carse, deputy chief of the Hong Kong Monetary Authority, defends his agency, saying money laundering is a "global problem" "

ow, that's some defense! Its a bit like saying "yes m'lud, my client did shoot a man dead, but people t shot dead all over the world".

atter Ref Mr C arse Letter from a Hong Kong regulator saying what a good boy he is.

ertain Web Sites in the know say this:-

[December 3, 2002](#)

Hong Kong: *Three quit Monetary Authority, triggering reshuffle - Hong Kong's longest-serving banking regulator, David Carse, is bowing out. Two senior colleagues at the Hong Kong Monetary Authority are also resigning - setting the stage for a reshuffle at the top of the SAR's de facto central bank. Deputy chief executive Tony Latter will leave when his contract runs out on January 3. His duties*

ll be assumed by another deputy chief executive, Norman Chan Tak-lam. Marian Li Chan Sien-mun ll leave the authority when her secondment as the chief executive of Exchange Fund Investment Ltd ds on January 31 when the company, set up to sell the government's stock portfolio, ceases eration. Most attention, however, will be focused on the departure of Mr Carse, deputy chief ecutive in charge of banking regulation when his contract expires in March. But he says he is willing stay on until a successor is chosen. Authority sources said it may ask Mr Carse to stay until the end next year to avoid the simultaneous departure of so many senior officials. Bankers are tipping Choi u-kwan, executive director of banking supervision and Mr Carse's deputy, to replace him. But there also speculation that Financial Secretary Antony Leung Kam-chung may appoint someone from tside the authority. "

ow to me this looks suspicious. A report criticising the ineptitude of certain people in their job the Hong Kong Monetary Authority is published in 2002. Then the top 3 people of the Hong ong Monetary Authority "Resign" at the end of 2002. Hmmm?

o as to not get people confused by asking **if a car was introduced to a scandal**, for the benefit of me I will just explain how this one works. But firstly, as with everything here and of course on other es, do your own checks on the search engines, don't just rely on my searches. this case we are going to do a check on **Google** on the words "scandal car hong kong resign" and at do we find, we find that in Hong Kong you do not get sacked for doing wrong or creating a andal, you just resign (Mr. Leung). Obviously too difficult for a certain crowd to understand.

ant to know what others think of Jersey. [READ THIS](#). One voice, but I guarantee that this voice is licated in nearly every other corner of the world that deals with money.

ary Godel, director of enforcement for the Jersey Financial Services Commission, refused to mment on the specifics of the Warren Trustees allegations, although he did say that trust directors ould be obligated to notify Jersey police if they were suspicious about the origins or nature of money ssing through trust fund accounts."

we know of at least one company that did just this, informed the police that they suspected one of their ents. The company has as yet not been granted a license (Transitional) due mainly to advising the lice and the Jersey Financial Services Commission on the matter. They are unable to take on new ents, they have lost clients through not having a license.

Good Reading (from the former economic advisor to the States of Jersey)

hat can be done to make Jerseys image better?

aving a regulator that answers to no one is not constructive to business. Requesting that complaints out the Regulator are sent to and dealt with by the same Regulator is a farce. It's a bit like making a w that if you are punched in the face you have to write me a letter and I will decide if you can sue. I en go round and punch everyone in the face. Not many are going to write a letter, and of those that do will just turn round and say that there is not enough evidence. I may let one minor one get through to ow I am impartial. Its the same with the "Commission", we need a body to regulate these people. ey have too much power and are not answerable to anyone. If we regulate the regulator, we will be en in a more positive light by the rest of the world and that can do only good for the finance in rsey.

Site Created Friday 22nd October 2004
Site re-activated Wednesday 12th January 2005

Please also Visit
WWW.JFSC.COM
WWW.TEDVIBERT.COM

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Item 2 **From jfsc.com**

JFSC.COM

25th January 2005

Where's the Money?

I have been looking into the two companies "[JFSC Property Holding No.1 Limited](#)" and "[JFSC Property Holding No.2 Limited](#)" to try and understand how they DID NOT make any money in owning houses for a number of years (5 Years).

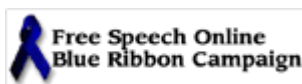
"[JFSC Property Holding No.1 Limited](#)" Registered on 29th June 1999 then went on to Purchase a house in Grouville at Le Clos Bertram for £350,000.00 a short while later. The Property was sold on 3rd October 2003 for £460,000.00 (includes £3,000 contents) making a profit of £110,000.00 yet the notes to the financial statements although confirming that the companies and therefore the properties were "[wholly owned by the JFSC](#)" (and an employee lived there throughout that time) state that the property was sold "at no profit or loss to the commission".

NOW, we have one of the highest paid employees of the commission who lived in the house wholly owned by the commission as a J Cat employee shortly after arriving in the Island in 1999. The commission obviously charged rent to the employee for the five years they lived there? For a house that size you would expect to be paying close to £2,000 a month, a minimum of £1,000. If the employee paid nothing, then have they advised the tax office that they have received money in kind? and who received the Money from the profit of the sale of the property? As the property was "[Wholly owned by the JFSC](#)", it cannot be been GIVEN to the employee in October 2003 can it? Does the tax office know?

If the employer is going to state that they owned the house and the company was a way round owning it, then that is breaking the housing law and they should be brought to task along with whoever allowed this to happen (Commission?, Housing? Senators? etc)

Whatever is the case, we now would like to see FULL accounts for both companies published on the jerseyfs.org website so that we can confirm or deny the unpublished information **provided** to us so far.

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Item 4

From tedvibert.com



2nd March 2005

Censored by the JEP

In order to advise people of the truth about the stories being put in the Jersey Evening Post I decided to publish at my own expense a full page information advert giving my side of the story (as it is easy for some to mislead the public when only one side of a story is heard)

Below is the text of that refused advert.

How it all began

Back in December 2004, I was told that the JFSC had put very tough - and in my view disgraceful - pressure on a local Trust company to force one of their employees to stop publishing a website (jfsc.com) on which information about financial scandals involving Jersey were published. The trust company involved had already been led a merry dance by JFSC officials and after four years, was still awaiting a full licence.

The pressure put on them by the JFSC to stop the site was huge. Their I.T. manager had discovered that no one had registered jerseyfsc.com, jerseyfsc.co.uk or jerseyfsc.net so he registered the sites and owned them. When it came to the notice of the JFSC certain information about Mr Carse was on these three websites they went into a terrible tizz. They called in their high powered lawyers, Mourant, who wrote to the I.T. manager in the following terms. "We act for the Jersey Financial Services Commission and have been instructed to take immediate action to ensure that this site, or any similar web-sites, is no longer used. This includes www.jerseyfsc.co.uk and www.jerseyfsc.net"..... "The web-site address is clearly designed to replicate that of the commission's identity and name. The sites are required to be shut down by you forthwith upon receipt of this letter. Please confirm by return that you have done this."

Such arrogance. Such tosh!

Strange that Maurant appeared to know so little about websites and the law covering them. For a start, the statement that jerseyfsc.com was designed to replicate the design or structure of the JFSC website was totally absurd. The jerseyfsc.com site is written in html is a shade of yellow and is called “Jersey Financial Scandals Collection”.

In addition, when you enter jerseyfsc.com, there is a clear statement that the site is not the Jersey Financial Services Commission site and it gives their website address. Domain names (website addresses) are not the specific preserve of business. In fact, the majority of website and domain names are non-profit-making personal sites which easily out number websites and domain names for businesses. In fact, a private individual, Dr. Lieven P. Van Neste owns well over 200,000 domain names.

The JFSC failed to register

It is clear that the JfSC failed to register a whole series of domain sites involved around the letters jerseyfsc or jfsc. If it wished no one else to use those initials they should have registered them. This is an elementary mistake which no competent IT manager should make. It is very significant that from June to November 2004 the Jersey Financial Scandals Collection bubbled along with no problems until the site carried a report from International Business week about a scandal in China and Hong Kong, when Mr David Carse was in charge of regulating banks there. Headed “The Bank of China’s Black Hole” the article went onto describe how nearly half a billion US Dollars had been systematically siphoned off from the Bank of China. The article stated: *“The case cast a harsh light on Beijing and Hong Kong regulators, who allowed the leakage to go on for almost a decade without detection”*... *“David T.R. Carse, deputy chief of the Hong Kong Monetary Authority defends his agency saying money laundering is a global problem and that Hong Kong has stepped up its surveillance of the banking system in recent months.”*

Jersey Financial Scandals also published a report from the Hong Kong Chamber of Commerce newsletter of 3rd December 2002, which reported that three people had resigned from the Monetary Authority triggering a re-shuffle, *“Hong Kong’s longest serving banking regulator, David Carse is bowing out. Most attention will be focused, on the departure of deputy chief executive in charge of banking regulation, Mr. Carse, when his contact expires in March. But he says he is willing to stay until a successor is chosen”*.

Defamed

Mr. Carse claims that by putting these two items together, he has been defamed. So incensed was he that, he instructed Maurant, to put pressure on the IT manager’s trust company bosses to tell the IT manager if he did not remove the website he would be suspended if he continued to defy them. When the IT manager went before the Bailiff to ask for an

administrative hearing on the grounds that the JFSC had used undue pressure on his employer, the Bailiff decided that they had acted quite properly. Knowing the whole case and having seen all the correspondence and being fully aware of the way in which the trust Company had been treated by the JFSC, I thought this judgement was naive and totally against the evidence.

I have particular hatred of public servants and politicians who do all they can to suppress free speech. This stems from the fact that I have three uncles, who all volunteered in 1939 to go to war to preserve this most precious of rights that so many take for granted. My uncles were 19, 18 and 17 when they enlisted, the 17 year old lying about his age. All saw action and the youngest became a Red Beret and parachuted into France as part of "the bridge too far" action. He was blown up by a German grenade and spent six months in a UK Hospital. His life was blighted by pain and when I visit him in 'The Limes' and see the pain etched on his face I feel deep anger at those people who devalue what he fought for. I have always believed in Voltaire's dictum. *"I disagree with what you say, but I will defend to the death your right to say it."*

It was this which led me to write a piece on my own website on 21/12/04 on www.tedvibert.com in the following terms WHAT IS DAVID CARSE HEAD OF THE JFSC SO SCARED OF

"You have to wonder what is going on behind the doors of their David Place building. Mr. Carse's reaction to a web-site, owned by an IT manager of a trust company, who calls his site jerseyfsc, standing for Jersey Financial Scandals Collection, deals with news from financial centres around the world.

The web-site contained a story from Newsweek about a financial scandal in Hong Kong in 2002, after which three top members of the Hong Kong Commission left their posts and resigned. One of them was Mr. Carse. The site asked the question as to whether or not Mr. Carse informed the island authorities about this when he was interviewed for the job.

The site raises general questions about the size of Mr. Carse's salary (over £200,000 a year), the fact that commissioners got a 66% increase in wages (mode average) and their wages bill is now £4 million pounds a year and yet they seem to need a large number of outside consultants to do their work."

All of this is quite legitimate comment – but Mr. Carse is clearly upset by it and instructed the Commission lawyers to close down the web-site on the grounds that it was "misleading to the public." That is all that has appeared on the websites about Mr. Carse. So you have to wonder - what is all the fuss about?

Mrs Hatton

With respect to Mrs Hatton, his deputy, all that has appeared on the sites about her are questions about how the JFSC could own companies that own property, sell them and no profits are recorded in the company accounts.

How did Mrs Hatton acquire a property in 1999 on a J category licence – she should not have been able to buy a property and sell it four years later, for a profit of £110,000? As the JFSC guaranteed her loan, does that not become a liability in their accounts? Why isn't it recorded? As the property was bought by a company owned by the JFSC and it was bought for the purpose by making a profit, why was no tax paid on the profit? As Mrs Hatton was a public servant and public servants were not permitted to use this device until 2003, why was an exception made for Mrs Hatton? None of this is defamatory but merely questioning. Again, I ask, what's the fuss all about?

Damaging Jersey's Reputation

Senator Walker and his colleagues have made much of the damage this is doing to the islands reputation in international financial circles. At a seminar last week organised by the JFSC, Senator Walker, his friend and political supporter Mr. Martin Scriven, President of the Jersey Bankers Association, Mr. Colin Powell and Mr. Phil Austin of Jersey Financial Ltd all severely criticised me. It's very easy to attack a person when he is not present. I wonder if they all would have been prepared to do that had I been present and given the right of reply. It takes courage to have a shot at a person when he is eye-balling you and you know he has the right to defend himself. To do it with a person absent is a form of "coward's castle". I can't believe that these people can possibly believe that a public argument between a senator and the financial regulators, about something said on a website, can do any harm at all. It shows that we are a robust and free speaking society. If it was so damaging, why completely re-gurgitate it all over their own website?

What is doing far more damage to Jersey's International reputation is having a member of the British Parliament putting up a proposition calling on Jersey to introduce Human Right's Legislation.

If Senator Walker was to concentrate more on governing than trying to defend his friends and colleagues, Jersey would be able to walk a little taller than it currently can on the world stage.

Letters from Mr. David Carse and Mrs. Helen Hatton to Senator E.P. Vibert

Mr D Carse
C/o Jersey Financial Services Commission
PO Box 267
Nelson House
David Place
St Helier
JE4 8TP

Senator E P Vibert
Le Caudret
La Rue de la Ville Bagot
St Ouen
JE3 2DH

17 February 2005

Dear Senator Vibert

I am writing with regard to comments about me that have appeared on websites apparently owned by you.

I am referring in particular to a comment that appeared recently on your website, www.edvibert.com, under the heading "What is David Carse, Head of the JFSC, so scared of?". This referred to a story that had originally appeared on the websites, www.jerseyfsc.com and www.jfsc.com, now also apparently owned by you. Among various criticisms made of me, you commented as follows:

"The website contained a story from Newsweek about a financial scandal in Hong Kong in 2002, after which three top members of the Hong Kong Commission left their posts and resigned. One of them was Mr Carse. The site asked the question as to whether or not Mr Carse informed the island authorities about this when he was interviewed for the job."

This comment is clearly defamatory since it contains the innuendo that I was obliged to resign from my previous position in Hong Kong because of a financial scandal. This is not the case. Publication of comments of this kind on websites owned (or apparently owned) by you damage my professional reputation and credibility, thus impairing my ability to do my current job and to find employment elsewhere. This is likely to cause me financial damage. The situation is made worse by the fact that allegations about the circumstances under which I left Hong Kong are being perpetuated and indeed encouraged in a chatroom hosted by www.jfsc.com.

No evidence has been produced by you to support the comment quoted above and you appear to have made no effort to check the facts relating to the circumstances under which I left Hong Kong. You have persisted in making the comment despite the fact that Mr Colin Powell drew your attention to the fact that it was unfounded. In my opinion, this is both unfair and irresponsible.

The insinuation that I was obliged to resign from my position in Hong Kong because of "financial scandal" rests solely on two unrelated pieces of information obtained from the internet in an apparent attempt to discredit me.

The first of these is an article from BusinessWeek (not Newsweek) dated 4 February 2002 (copy attached). This refers to a fraud that occurred in the Kaiping branch of the Bank of China, which resulted in the misappropriation by bank officials of some US\$480 million. It should be noted that the fraud occurred in Mainland China, not Hong Kong, but some of the misappropriated funds were invested in Hong Kong in property, shares and bank deposits. The article comments that the Kaiping case "casts a harsh light on the Beijing and Hong Kong regulators, who allowed the leakage of Bank of China funds to go on for almost a decade without detection." It quotes me as saying that money laundering is a "global problem".

Nowhere in the article is there any personal criticism of me or any suggestion that I would be leaving the Hong Kong Monetary Authority as a result of the Kaiping episode.

As noted above, the Kaiping fraud occurred within Mainland China, and it is a matter of opinion whether the Hong Kong authorities should be blamed for the fact that some of the money found its way to Hong Kong. I stand by my comment that money laundering is a global problem, and one that raised particular issues in Hong Kong given the close economic and financial connections with the Mainland. At any rate, it is legitimate for journalists to form their own views on this.

What is not legitimate however is to link this story to a completely unrelated item that appeared on a Hong Kong Chamber of Commerce site in December 2002 (copy attached). This reported that three senior executives were leaving the Hong Kong Monetary Authority, including "Hong Kong's longest serving banking regulator, David Carse". The innuendo made on the websites apparently owned by you is that these departures were linked to the Kaiping episode.

This is not the case. The Chamber of Commerce report is purely factual and makes no reference to Kaiping. The other two "senior executives" named in the report had nothing to do with regulatory matters, and it is thus particularly misleading to suggest that their departure had anything to do with the Kaiping episode.

In my case, during my time with the Hong Kong Monetary Authority, I was employed on a series of contracts, generally for three years at a time. When I renewed my contract in 2000, I informed the Chief Executive of the Hong Kong Monetary Authority, Joseph Yam, that I wished to return to the UK at the end of that contract for family reasons. I was originally due to leave at the end of March 2003, but this would have resulted in two Deputy Chief Executives of the Authority leaving at around the same time. For this reason, and to allow some overlap with my successor, I agreed with Joseph Yam that I would extend my contract until September 2003. I then returned to the UK upon the expiry of the extended contract. I should stress that this was a retirement in the normal course of events and had nothing to do with "financial scandal" related to the Kaiping episode.

I attach a letter from Joseph Yam dated 17 December 2004, that confirms this version of events. I would also point to my continuing membership of the International Advisory Council of the China Banking Regulatory Commission, something that I would hardly remain involved with if I had left Hong Kong as a result of a "financial scandal".

Prior to my departure from Hong Kong, I was approached to apply for the post of Director General of the Jersey Financial Services Commission. I decided to take up the offer of the appointment because of Jersey's high reputation for the quality of its finance industry and its financial regulation.

I am concerned that this reputation is now being damaged by the activities of the person who is the source of the allegations that have appeared on the websites apparently owned by you. I note that unfounded and malicious allegations are now also being made against my deputy, Mrs Helen Hatton, along with unsavoury comments about Commission staff in general. The damage caused by these allegations and comments is exacerbated by the fact that they are appearing on websites whose domain name is similar to that of the Commission. This has the risk of creating confusion, by attracting to the websites persons who are trying to find the legitimate website of the Commission. We have recently had an instance of an email from a regulated entity going astray because it was addressed to a person @jerseyfsc.com (rather than jerseyfsc.org).

I am aware that the right to publish material about the Commission, Mrs Hatton and myself has been defended as being part of free speech and human rights. Certainly, I do not believe that there should be restrictions on the right to publish material that is simply critical of the Commission. However, there is a line to be drawn and it is crossed when the material in question is false, malicious and defamatory, and likely to damage the reputation of the Commission and of Jersey itself.

It was for this reason that I asked the employer of the individual in question to ask him to desist from his activities. It is wholly wrong to suggest that I ordered the employment of that individual to be suspended or terminated. I note that in his judgement on the failed application for judicial review of my actions, the Bailiff ruled that I had behaved "with moderation and complete propriety".

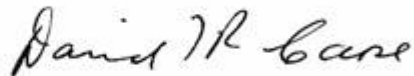
The material that has been published by you or on websites apparently owned by you in relation to my departure from Hong Kong clearly crosses the line in terms of what is fair and acceptable comment. The purpose of this letter is to ask you to publish a retraction of the allegations about my departure from Hong Kong on the various websites apparently owned by you, including but not limited to www.tedvibert.com. I also request that you publish a copy of this letter along with the attachments to the letter. Please also do the same in relation to the allegations that have been made in relation to Mrs Hatton. In the meantime, I reserve all of my rights to seek to protect my position and to recover damages for the losses I have suffered.

Because of the public attention that this matter has received, the letters to you from both Mrs Hatton and myself will also be published on the Commission's website, along with a warning in relation to the websites apparently owned by you whose domain name may be confused with that of the Commission.

In addition, I am copying this letter to the Board of Commissioners, the President of the Policy & Resources Committee, the President of the Economic Development Committee, the President of the Privileges & Procedures Committee and Jersey Finance Limited.

I look forward to hearing from you.

Yours sincerely

A handwritten signature in black ink that reads "David R Carse". The signature is written in a cursive, slightly slanted style.

David Carse

Enc

Cc: Chairman and Members of the Board of Commissioners - Jersey Financial Services Commission
Senator F Walker - President, Policy & Resources Committee
Deputy G Voisin - President, Economic Development Committee
Deputy R Le Hérisier - President, Privileges & Procedures Committee
Mr P Austin - Jersey Finance Limited

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FEBRUARY 4, 2002

INTERNATIONAL BUSINESS

The Bank of China's Black Hole

How \$480 million disappeared from one of the country's biggest banks

Regulators in China, Hong Kong and the U.S. are painfully aware that scandal is rattling Bank of China, one of the mainland's four biggest banks. One case goes right to the top. Former Chief Executive Officer Wang Xuebing is now detained for alleged misconduct in the matter of a \$23 million loan. The fraud, which involves the bank's New York office, has just forced the bank to pay Chinese and U.S. authorities a \$20 million fine.

But scandal is not just stalking the executive suite at Bank of China. Details are now coming out of a theft at the bank that makes the Wang case look like a financial footnote. Almost half a billion dollars are missing from the bank's accounts, and police in China, Hong Kong, and Canada are trying to find the money and the bank executives who allegedly masterminded the scam. While they look, the integrity of China's banks is bound to get a serious knock just as the country enters the World Trade Organization. The thefts are raising troublesome questions about China's ability to regulate its financial system, even as that system is being thrown open to the forces of the free markets.

The tale starts at Kaiping Sub-Branch of Bank of China. While Kaiping is a prosperous manufacturing town in Guangdong province, the branch itself seems an unlikely place from which to engineer a major international financial scam. Set in one of the town's only skyscrapers, the branch's empty lobby and trickle of customers make it look more like a monument to its managers' egos than a commercial enterprise.

But the Kaiping Sub-Branch is now the focus of a probe involving dozens of investigators on two continents. For it was through Kaiping that a group of Chinese bank executives allegedly diverted millions from Bank of China over a nine-year period starting in 1992 and ending last October. Senior Bank of China executives believe that when the damage is toted up, the loss will total some \$480 million. Only about \$75 million has been accounted for so far, and much of that appears to have been lost in the crash of the Hong Kong real estate and stock markets after 1997. A Hong Kong police source says of the probe: "It's a big one."

Hong Kong investigators believe that the theft involved Bank of China branch staff in Kaiping and Guangzhou, capital of Guangdong, along with accomplices in Hong Kong and Vancouver, where some of the money now resides. Four people have been arrested in Hong Kong and charged with "dealing in property known or believed to represent the proceeds of an indictable offense." Their arrests were made in October, but details of the cases have just come out in documents filed in a Canadian court. Meanwhile, Canadian police may be looking for three other

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suspects who Hong Kong authorities believe fled to Vancouver, including the purported mastermind of the scheme, a former Kaiping branch manager named Fan Xuchao.

The Kaiping case casts a harsh light on Beijing and Hong Kong regulators, who allowed the leakage of Bank of China funds to go on for almost a decade without detection. David T.R. Carse, deputy chief of the Hong Kong Monetary Authority, defends his agency, saying money laundering is a "global problem" and that Hong Kong has stepped up its surveillance of the banking system in recent months.

In setting up their operation, the Kaiping gang allegedly used a scam common among Chinese companies in the go-go 1990s, when China-linked stocks boomed on the Hong Kong bourse. Many mainland Chinese set up so-called "window" companies to speculate in stocks and real estate in Hong Kong--China's window on the rest of the world. In local parlance, window companies that indulged in such speculation were "stir-frying" investments. According to investigators, Fan and his confederates cooked up a storm.

Some of the window companies were legal, while many occupied a gray area. All had to contend with strict Chinese laws against moving money from the mainland. Often, funds were diverted from mainland companies and banks by employees who wanted to play the markets. Those who "borrowed" this way would pay their employers back if they made money. If not, the scamsters relied on creative accounting to cover their tracks.

In the Bank of China case, Hong Kong authorities allege that Fan started skimming money in the early 1990s, when he worked at the Kaiping branch. In 1999, he was promoted to a managerial job at the Guangzhou regional headquarters. From 1999 until he fled last October, Hong Kong authorities assert, he conspired with two managers at the Kaiping branch, Xu Guojun and Yu Zhendong, to steal almost \$75 million. What happened to the \$405 million that disappeared before Fan's promotion isn't yet clear.

Fan's principal Hong Kong window company, authorities say, was Ever Joint Properties, founded in 1993. Fan is said to have recruited a relative, Hui Yat-sing, to set up Ever Joint. Hui was arrested in Hong Kong in October, along with his wife and two others. Contacted through a spokesperson, Hui refused to comment. The lawyers of the other arrested suspects couldn't be reached.

Much of the money deposited at Ever Joint moved on to other accounts at elite financial institutions. According to court documents filed in Vancouver, Fan and his partners had deposit and brokerage accounts at Hong Kong branches of ING Bank, Standard Chartered Bank, Fortis Bank, UBS, and HSBC Broking Securities. Contacted by *BusinessWeek*, Standard Chartered said it is cooperating with police on the case. The other banks refused to comment.

Fan and company invested millions of dollars in Hong Kong stocks--apparently with disastrous results. Ever Joint's biggest stock position was in Leading Spirit High-Tech Holdings Ltd., a China stock that has plunged 99% from its 1997 high. The group also bought a stake in tycoon Richard T.K. Li's Pacific Century CyberWorks Ltd. Worth \$4 million when the stock peaked two years ago, the stake is now valued at \$321,000.

The Bank of China's loss was not discovered until the three main suspects, Fan and his bank cohorts, Xu Guojun and Yu Zhendong, fled China, apparently last October. Though Hong Kong police believe they're in Canada, the Royal Canadian Mounted Police say they have not yet made an arrest. An RCMP spokesman says, however, that the agency is examining a "roomful of documents that may have evidence of alleged wrongdoing" by the trio. Canadian bank accounts containing a total of \$3.8 million have been frozen. Accounts in Hong Kong containing an unknown amount of money have also been frozen.

The Kaiping case has given added impetus to attempts by Bank of China Chairman Liu Mingkang to install more sophisticated risk management measures. But the explosion of bank corruption won't be ended easily. Part of the problem is



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that Chinese bankers receive pitifully small salaries by international standards. The top execs at China's four major banks typically make just \$3,600 to \$4,350 a year. Fan, of course, made much less. "You have government officials controlling substantial amounts of resources, and you pay them almost nothing," says an adviser to several mainland enterprises. "It provides an incentive for people to steal." Unfortunately, that incentive is working all too well.

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Corrections and Clarifications

The name of a Bank of China employee was misstated in "The black hole" (International Business, Feb. 4). The correct name is Xu Chaofan, not Fan Xuchao.

By Mark L. Clifford in Hong Kong and Petti Fong in Vancouver, with Miguella Lam in Hong Kong, Alysha Webb in Shanghai, and Dexter Roberts in Beijing

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December 4, 2002

China: China Merchants Bank unveils credit-card plan for masses China Merchants Bank has announced plans for the mainland's first mass credit-card campaign - signaling the start of aggressive competition for customers in the infant market.

Hong Kong: Innovate or die, SAR lenders warned Home lending may be left to just a handful of big banks in Hong Kong as shrinking profit margins force a shake-out of the industry and squeeze low-volume lenders out of the mortgage business.

Hong Kong: Continental adds a New York flight Continental Airlines will boost its presence in Hong Kong this spring with another flight on its non-stop service from Hong Kong to New York, making a total of six services a week.

December 3, 2002

China: Shanghai lands 2010 World Expo - The cultural and economic showcase is set to give China a bigger boost than the Beijing Olympics, say economists. Shanghai celebrated late into the night after being awarded the right to stage the 2010 World Expo, an event touted as a bigger economic boost for China than Beijing's Olympic Games.

Hong Kong: Three quit Monetary Authority, triggering reshuffle - Hong Kong's longest-serving banking regulator, David Carse, is bowing out. Two senior colleagues at the Hong Kong Monetary Authority are also resigning - setting the stage for a reshuffle at the top of the SAR's de facto central bank. Deputy chief executive Tony Latter will leave when his contract runs out on January 3. His duties will be assumed by another deputy chief executive, Norman Chan Tak-lam. Marian Li Chan Sien-mun will leave the authority when her secondment as the chief executive of Exchange Fund Investment Ltd ends on January 31 when the company, set up to sell the government's stock portfolio, ceases operation. Most attention, however, will be focused on the departure of Mr Carse, deputy chief executive in charge of banking regulation when his contract expires in March. But he says he is willing to stay on until a successor is chosen. Authority sources said it may ask Mr Carse to stay until the end of next year to avoid the simultaneous departure of so many senior officials. Bankers are tipping chief Yiu-kwan, executive director of banking supervision and Mr Carse's deputy, to replace him. But there is also speculation that Financial Secretary Antony Leung Kam-chung may appoint someone from outside the authority.

December 1, 2002

Hong Kong: Developers spark fresh price war Sheung Wan and Kowloon projects have set new benchmarks in a property market that has seen prices fall 65pc since 1998. Wharf (Holdings) is cutting prices for the first batch of public sale units at its Kowloon Station, Sorrento phase two project, after Queen's Terrace in Sheung Wan was yesterday priced at more than 10 per cent below prevailing secondary market prices. The two core urban district projects are seen as setting new benchmarks for a property market which has seen a 65 per cent decline in prices since 1998.

China: Guangdong to build bridge to Hainan, the 30km link is expected to provide an economic boost to both provinces.



Guangdong will invest 50 billion yuan (HK\$47.2 billion) to build a bridge linking the province with Hainan island, local reports say. The 30km structure is part of a national project to build five bridges starting in Tonliann part of northernmost United States.

from HKCH cc. 013



HONG KONG MONETARY AUTHORITY
香港金融管理局

Joseph C. K. Yam GBS, JP
Chief Executive

任志剛 GBS, JP
總裁

Your Ref.: GCP/AMV

17 December 2004

Mr Colin Powell
Chairman
Jersey Financial Services Commission
PO Box 267, Nelson House
David Place, St. Helier, Jersey
Channel Islands JE4 8TP

David Carse

Thank you for your letter of 14 December 2004 drawing my attention to certain unwarranted comments in relation to the reasons for David's departure from Hong Kong.

I would hereby confirm that David had an impeccable career in Hong Kong, both as Commissioner of Banking from 1991 and as Deputy Chief Executive for the Hong Kong Monetary Authority since its establishment in 1993. The Hong Kong banking sector was widely regarded as one of the best supervised in the world during David's tenure. I am still sorry that David had decided to leave us in 2003, but fully respect his decision to go.

You have my authority to show this letter to anyone you deem necessary and appropriate.

Yours sincerely,

55th Floor, Two International Finance Centre,
8 Finance Street, Central, Hong Kong
Tel: (852) 2878 8188 Fax: (852) 2878 8190
E-mail: Joseph_CK_Yam@hkma.gov.hk
Website: www.hkma.gov.hk
Telex: 74776 XPFUND HK

香港中環金融街8號國際金融中心2期55樓
電話: (852) 2878 8188 傳真: (852) 2878 8190
電郵: Joseph_CK_Yam@hkma.gov.hk
網址: www.hkma.gov.hk
電訊號碼: 74776 XPFUND HK

Please reply:

Mrs Helen M Hatton,
c/o Jersey Financial Services Commission, PO Box 267, Nelson House,
David Place, Jersey, JE4 8TP

Senator T Vibert
Le Caudret
Le Rue de la Ville Bagot
St Ouen
JERSEY
JE3 2DH

17 February 2005

Dear Senator Vibert

The purpose of this letter is to ask you to remove false references to me from your website and from other websites apparently owned by you. It may be that the statements are made in error but in any event my husband, children and I are deeply offended and upset by them. In addition, I believe they damage my reputation and may cause me financial loss.

The statements appear at www.jerseyfsc.com and www.jfsc.com and copies are attached at appendix A. I am writing to you because the websites state that they are owned by you. Should that not be the case, I would hope that you would join me in my concerns that damaging false statements can be made about a person on the web.

I will set out my answer to the assertions on the website.

1. I was invited to take up the post of Deputy Director General at the beginning of 1999. I came to the Island in the belief I could assist a right-minded jurisdiction through a period when it had to balance international pressure for increased regulation against the legitimate concerns of its financial industry.
2. My colleagues and I worked hard to bring regulation to a standard that meets international expectations and secures the future of the Island as an international finance centre. This, together with our ability to implement regulation, is of course what we have been paid to do.
3. False statements that impact my integrity have a direct bearing on my ability to do my current job and my chances of finding subsequent or alternative employment because a regulator relies locally and internationally on its reputation for having integrity to be able to do its job. Therefore such statements are not simply petty sniping which can be ignored, but have serious implications that are likely to cause me real financial damage.

4. The website referred to above asserts that I have broken Jersey housing laws and submitted false tax returns by failing to declare benefits in kind. This is completely false and should be immediately withdrawn.
5. The website referred to above contains a chat room which publishes a comment contributed by R Carol who refers to me being corrupt - this evidences the immediate damage to my reputation that the false statements have caused.
6. I was not contacted to check the allegations or to give me an opportunity to answer the concerns raised. Such an approach is fundamentally unfair and in my view breaches simple principles of courtesy and natural justice as well as demonstrating malicious intent rather than any true desire to identify malpractice which would have been better served by airing these concerns with me, my employer or with the Housing Department, or Economic Development Committee to whom this Commission is accountable.
7. I am pleased to provide an explanation of my housing situation which is supported by the attached documentary evidence at Appendix B.
8. When I came to Jersey, I carefully considered whether I would invest in property in this Island. Many "J" category people do not, particularly for example if the term of their "J" category is for only two or three years. I happened to feel a long term commitment to the Island and therefore did choose to invest.
9. As you rightly say, this confidence produced a good profit, similar to profits shared by other homeowners in Jersey through the same period.
10. The Housing Committee has a long established procedure to meet the needs of the "J" category people who do wish to make a financial commitment to the Island. The arrangement is that:-
 - a. the employer forms a company which it owns and controls;
 - b. the purpose of the company is to hold a property that is paid for by the "J" Category employee;
 - c. the "J" Category employee occupies it under an occupation agreement;
 - d. all equity gain or loss is borne by the "J" Category employee.
11. This is the arrangement under which I occupied 3 Clos du Bertram: far from breaking the Housing Regulations as the website asserts, the arrangement is REQUIRED by the Housing Committee and was approved by them.
12. I attach full copies of the evidence of the:-
 - a) Housing Committee Approvals for the arrangement,
 - b) Occupation agreement, and
 - c) Letter from Housing confirming arrangement was in order.

13. No Commission money was put into the property, no rent was charged (I paid the mortgage in the normal way) and therefore no benefit in kind arises. There is therefore no question of my having submitted false tax returns.
14. The whole arrangement was entirely proper and fully approved. The assertions on the website are false.

The website also asserts that I am unpopular. Of course the work the Commission does is sometimes unpopular and inevitably the Commission's senior staff may become identified with that unpopularity. Overall, however, both David Carse and I have good relations with the licensed community.

I have been deeply concerned to see the damage to the Island's credibility that these websites might cause. Key selling points for Jersey are political stability and a political commitment to maintaining the island as a leading financial centre. In today's world "leading financial centre" means a well regulated and co operative one. The false information about the Commission, David Carse and I, on the website is ridiculed by the informed and unnerves the uninformed.

To close I would remind you that I would like you to publish, or procure that there is published, a retraction of all remarks regarding my housing or tax arrangements being improper. In addition, I would like you to publish this letter in full, together with the documentary evidence which proves my arrangements were completely in order.

Unless this course of action is followed, I believe firstly my reputation and career prospects will be damaged, resulting in grounds for suit and second, that your own behaviour would be ungentlemanly. In the meantime, I reserve all of my rights to seek to protect my position and to recover damages for the losses I have suffered.

Yours sincerely



Helen M Hatton

Enc

Cc:

Chairman and Members of the Board of Commissioners, Jersey Financial Services Commission
Senator F Walker, President of Policy & Resources Committee
Deputy G Voisin, President, Economic Development Committee
Deputy R Le Hérissier, President, Privileges & Procedures Committee
Mr P Austin, Jersey Finance Limited

JFSC.COM

25th January 2005

Where's the Money?

I have been looking into the two companies "JFSC Property Holding No.1 Limited" and "JFSC Property Holding No.2 Limited" to try and understand how they DID NOT make any money in owning houses for a number of years (5 Years).

"JFSC Property Holding No.1 Limited" Registered on 29th June 1999 then went on to Purchase a house in Grouville at Le Clos Bertram for £350,000.00 a short while later. The Property was sold on 3rd October 2003 for £460,000.00 (includes £3,000 contents) making a profit of £110,000.00 yet the notes to the financial statements although confirming that the companies and therefore the properties were "wholly owned by the JFSC" (and an employee lived there throughout that time) state that the property was sold "at no profit or loss to the commission".

NOW, we have one of the highest paid employees of the commission who lived in the house wholly owned by the commission as a J Cat employee shortly after arriving in the Island in 1999. The commission obviously charged rent to the employee for the five years they lived there? For a house that size you would expect to be paying close to £2,000 a month, a minimum of £1,000. If the employee paid nothing, then have they advised the tax office that they have received money in kind? and who received the Money from the profit of the sale of the property? As the property was "Wholly owned by the JFSC", it cannot be been GIVEN to the employee in October 2003 can it? Does the tax office know?

If the employer is going to state that they owned the house and the company was a way round owning it,

then ~~that is breaking the housing law~~ and they should be brought to task along with whoever allowed this to happen (Commission?, Housing? Senators? etc)

Whatever is the case, we now would like to see FULL accounts for both companies published on the jerseyfs.org website so that we can confirm or deny the unpublished information **provided** to us so far.

Back



Join the Blue Ribbon Online Free Speech Campaign!

Failing that, there must be people in the finance industry in Jersey, who know people here in HK that they can ask about his tenure here? Get them to leave the truth in the guestbooks.

Name not left for obvious reasons. 😊

Monday, 31. January 2005 07:59 PM Host: userxxx.rexxx-rl2.jlba.net

Why is a PWC Partner a commissioner why are Mourants represented on the commissioners why are PWC Auditors, why are Mourants legal advisors why did no one from Mourants get the bullet for Enron Why do PWC get to manage all the delinquent trust companies managers of CONFLICTS OF INTEREST ANYONE?

Why is Peter Mxxxxx been had up for money laundering after 4 years after his company was closed by the Kremlin for matters pre dating the Proceeds of Crime Law

I THOUGHT RETROSPECTIVE LEGISLATION WAS A BREECH OF HUMAN RIGHTS - Not to the JFSC!!!

Friday, 28. January 2005 09:33 AM Host: userxxx.rexxx-rl2.jlba.net

Just goes to show you doesn't it? Corruption from the bum up, but are we surprised anymore? I think not. We hear so many stories of corruption that should have had some of our Senators throwing in the towel through embarrassment at the least, yet they still maintain that the vast majority still want them there. What bu***hit,

And that house in the news column, you can read into that can't you? The employee came to the Island, bought a house through the company she works with (the JFSC) and lived in it, totally flouting the housing law. I have been here twelve years and I still have to live in a crappy rented accommodation. How long has Hatton been here? (name in the electoral register for 2002 for that address). This is not just unfair, this is unlawful and will lead the many people rightly wanting their pound of flesh.

Keep up the good work. I am waiting in anticipation of what you will discover next.

Wednesday, 26. January 2005 09:31 PM IP: 64.26.130.103



Hi,

Mr C arse is a really nice man, you should get to know him and his family before taking shots at him. So what if he earns over £200,000 a year he works hard for it unlike you working class scum reading this. You should all be ashamed of yourselves and bow down before your betters. He does have a degree in Latin and English, so he knows hows to spell aquiduct (see I haven't got one and I can't do it).

You should all know better.

Love

Alastair Campbell
ex-spin doctor to Mr T Blair.

6) El Tigre

Location:

Everywhere and nowhere baby

5) Roger

r.carrol@gmail.com
Location:

4) Alastair Campbell

a.campbell@conservative.com
Location:
London

Travel Costs

Again over £2,500 per WEEK Why?

Audit fee £13,000. Why is this so low? For instance a small Trust Companies audit fee from a non-top four firm (who would be expected to be much cheaper) is also around £13,000

Notes to the Financial Statements.

Related Party Transactions

It is stated that fees paid to professional firms with which the Commissioners are connected are not significant in the context of the business of the parties - if this is true, then why not disclose them? The reason for disclosing them is so that the public and the regulated entities can see whether there is any conflict of interest. In particular the auditors would be required in the UK to disclose their other earnings from the Commission. The accounts are therefore not prepared in accordance with UK Accounting Standards as claimed

Investigation and Litigation Costs

Comment has already been made about the lack of transparency due to netting off. However the rather disingenuous statement on page 40 should also be noted - "a significant amount ...has not been separately disclosed due to conditions IMPOSED as part of a settlement APPROVED by the Royal Court" Those so called imposed conditions would have been entered into freely by the Commission and any settlement between parties to put an end to litigation would automatically be approved by the Court. So to leave the impression that they were forced to do this and also to file misleading accounts by the Royal Court is untrue.

Financial Commitments P49

A firm of Chartered Accountants at a cost of £350k have been appointed - If this firm has any connection with either the auditors or any Commissioner then this must be disclosed.

Interest in Wholly Owned Companies P51

This looks like a scam to get round the Housing Regulations at the least at worst it is possibly fraud. If houses have been transferred into companies recently to accommodate this, then the Housing Department are complicit in this. Is this what a regulator should be involved in?

Commissioners' Remuneration

Note that Powell got a rise of 10%, Pirouet 10%, Richomme and Tibbo 10% But Dobbie, Winckler and Musch got a whopping 67%! Why? Who decides on their rise or do they simply give it to themselves. Also noted that Musch and Winckler are probably already conflicted in that their firms provide audit and other accounting services to the

HOUSING COMMITTEE

Ref No: HL133076

*Appendix B
Ref para 12(a)*

Date of Application: 15 June 1999

Date of Consent: 28 June 1999



The Housing Committee, in pursuance of the Housing (Jersey) Law, 1949, as amended, has consented to the following transaction:-

the sale in perpetuity of 3 Clos de Bertram, La Grande Route des Sablons, Grouville by Curiet Holdings Limited to JFSC Property Holding No 1 Limited for a sum of £350,000 for the realty and certain contents.

subject to the conditions:-

1. that the dwelling accommodation on the land shall be used exclusively or mainly for residential purposes, and there shall be no diminution of such existing area of private dwelling accommodation;
2. that the property shall be occupied by Mrs Helen May Hatton, on a service basis, for the duration of her full time employment with the Jersey Financial Services Commission as Deputy Director General, such a period not exceeding five years and expiring June 2004, or by persons specifically approved as occupiers by the Committee;
3. that in the event of the creation of any further units of dwelling accommodation upon the land, such accommodation shall not, without the consent of the Committee, be occupied other than by persons specifically approved by the Committee as being persons of a category specified in Regulation 1 (1)(a), (b), (c), (d), (e), (f), (g) or (h) of the Housing (General Provisions) (Jersey) Regulations, 1970, as amended, or by persons who have submitted a Particulars of Exempted Transaction form in accordance with Regulation 5 (1) of the above Regulations, and who will occupy the accommodation as their sole or principal place of residence;

On behalf of the Housing Committee

CM Newcombe

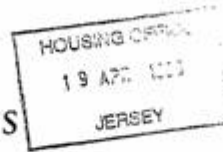
DEPUTY Greffier of the States

WARNING

The grant of this consent is purely permissive and in no way absolves the parties concerned from obtaining any other permission that may be required under legislation administered by Planning and Environment, Finance and Economics, Tourism or Agriculture and Fisheries Committees or under any other relevant Laws for the time being in force.



JERSEY FINANCIAL SERVICES
COMMISSION



Mr W Sugden
Housing Department
PO Box 587
Hilgrove House
Hilgrove Street
St Helier JE4 8XT

Our Ref.: G.221

16 April 1999

Dear Bill,

J-Category Accommodation

Thank you for taking the time to speak with me yesterday regarding the above subject.

My understanding of our conversation is that, whilst it is not possible for a J-Category employee to purchase a premises on the Island, it is acceptable to the Housing Committee for an organisation such as ourselves to form a company to purchase a premises which our J-Category employee could then occupy for the duration of his/her contract.

I should be grateful if you could confirm my understanding is correct.

Should we need to undertake this arrangement it would be our preference to use the company specifically for this transaction. Should another transaction be required in the future we would intend to establish a new company for this purpose. I should also be grateful to know whether this approach is in line with Housing Committee policy.

I look forward to hearing from you.

Yours Sincerely,

Michael Heald
Director, Support Services

\\Fsc1\fsodata\G - Files\G221 - Recruitment\tr - Housing re DDG accommodation 16.04.1999.doc

Mr Michael Heald
Director
Support Services
Jersey Financial Services Commission
PO Box 267
Nelson House
David Place
St Helier
Jersey
JE4 8TP

Our Ref: HLM27308/WHS/GM

20 April 1999

Dear Michael

Re: 1(1)(j) Category Accommodation

I thank you for your letter of 16 April 1999, with regard to the Commission purchasing a house for one of its five year 1(1)(j) category employees.

I would confirm that it is in order for the Commission to set up a company to purchase a property for a senior employee on a five year 1(1)(j) category consent, and that the consent would be granted for that employee to occupy whilst in full-time employment with the Commission.

I must point out that at the end of the five year consent, the employee will have to vacate the property and I assume that if they have provided the finance for it, will wish to sell it in order to realise their assets.

I would also confirm that should the Commission wish to do the same thing with another senior employee, it will be perfectly in order for them to set up another company.

I must stress that the company must be fully owned by the Commission and that only in the event of the persons concerned being granted an unlimited 1(1)(j) category consent would they be able to purchase it from the company in their own names at the end of a period of ten years continuous employment with the Commission.

I hope this makes the situation quite clear, but if I can be of any further help please do not hesitate to contact me.

Yours sincerely



W H SUGDEN
SENIOR LAW & LOANS OFFICER

Direct line: 884410

Appendix B
Ref para 12(b)

INC./AGREEMENTS/HATTON

15/06/99

THIS AGREEMENT is made and entered into this day of One thousand
nine hundred and ninety-nine.

BETWEEN: THE JERSEY FINANCIAL SERVICES COMMISSION (hereinafter called
"JFSC" which expression shall include the JFSC its successor in title or assign) of the first part;

AND: HELEN [] HATTON (née []) (hereinafter called "Mrs.
Hatton" which expression shall include her heirs executors and administrators) of the second
part;

AND: JFSC PROPERTY HOLDING NO. 1 LIMITED a Company incorporated under the
laws of the Island of Jersey (hereinafter called "JFSC Property" which expression shall include
its successors in title or assigns) the registered office of which is situate at [] of
the third part.

WHEREAS:

1. By Agreement dated [] the JFSC has engaged Mrs. Hatton in employment.
2. Mrs. Hatton is not qualified to purchase the immovable property known as 3 Le Clos de
Bertram, La Grande Route des Sablons, Grouville, Jersey (the "Property") for the

purposes of the Housing (General Provision) (Jersey) Regulations, 1970 (the "Regulations").

3. The JFSC has agreed, with the consent of the States of Jersey Housing Committee, to purchase the Property for Mrs. Hatton to live in during the term of her employment.
4. The JFSC has incorporated JFSC Property Limited as a vehicle to purchase the immovable Property.
5. Mrs. Hatton has agreed to finance the purchase of the Property.

IT IS HEREBY AGREED that:-

1. In consideration of Mrs. Hatton agreeing to be employed by the JFSC, JFSC Property shall:
 - (a) purchase the Property from Curiet Holdings Limited (the "Vendor") by hereditary contract passed before the Royal Court of Jersey on Friday 18th June, 1999 or such subsequent Friday as shall be agreed between JFSC Property and the Vendor;

SML/AGREEMENTS/HATTON

15/06/99

- (b) enter into an agreement of licence with Mrs. Hatton to enable her to live at the Property.
2. In consideration of JFSC Property's agreement to purchase the Property and licence it in accordance with Clause 1 hereof Mrs. Hatton shall:
- (a) lend to JFSC Property the purchase price of the Property in the sum of £350,000 (the "Purchase Price");
 - (b) pay:
 - (i) the stamp duty on the purchase of the Property payable to the Treasurer of the States of Jersey in the sum of £[] (the "Stamp Duty");
 - (ii) the scale fee on the purchase of the Property payable to Olsen, Backhurst & Dorey in the sum of £[] (the "Scale Fee").
 - (iii) the fees charged by [National Westminster Bank Plc] (the "Bank") in relation to the guarantee and security that may be granted by JFSC Property pursuant to Clause 6 hereof.

- (iv) the stamp duty payable to the Treasurer of the States on the registration of a judicial hypothec that may be obtained by the Bank pursuant to Clause 6 hereof.

3. The Purchase Price shall be made up of:

- (a) the sum of £[] to be advanced by the Bank to Mrs. Hatton, the whole in accordance with an agreement dated [] (the "Loan");
- (b) the sum of £[] to be advanced by Mrs. Hatton.

4. Mrs. Hatton shall forward the Purchase Price, the Stamp Duty and the Scale Fee to Olsen, Backhurst & Dorey in cleared funds prior to mid-day on Friday 18th June, 1999 or prior to the mid-day of such subsequent Friday as shall be agreed between JFSC Property and the Vendor.

5. The advance of the Purchase Price by Mrs. Hatton to JFSC Property shall be by way of an interest free loan to JFSC Property (the "Interest Free Loan") and is advanced in accordance with the terms of this Agreement.

6. In consideration of Mrs. Hatton advancing the Purchase Price to JFSC Property as aforesaid, JFSC Property shall give to the Bank a guarantee for the Loan and by way of security for such guarantee grant to the Bank:

(a) a judicial hypothec over the Property;

[(b) a security interest over the shares of JFSC Property;]

Provided that the liability of JFSC Property pursuant to such guarantee or security shall not extend beyond the Property.

7. Mrs. Hatton covenants to be responsible for all monies payable pursuant to the Loan.
8. In the event that Mrs. Hatton shall qualify under the Regulations to purchase immovable property in Jersey in her own name and shall be desirous of the Property being transferred into her own name and has notified JFSC and JFSC Property in writing of such intention then in such event JFSC Property shall within a reasonable time period transfer title to the Property (either by hereditary contract or by transfer of shares in JFSC Property) to Mrs. Hatton.

9. In the event that:

- (a) Mrs. Hatton's employment by the JFSC shall be terminated by either party and Mrs. Hatton does not at the date of termination qualify under the Regulations to purchase immovable property in Jersey in her own name and/or;
- (b) Mrs. Hatton shall wish to transfer the Property to a third party who does qualify under the Regulations to purchase immovable property in Jersey and has notified JFSC and JFSC Property in writing of such intention.

then in such event JFSC Property shall within a reasonable time period transfer title to the Property (either by hereditary contract or by transfer of shares in JFSC Property) to the third party in question.

10. In the event that Mrs. Hatton's employment by JFSC shall be terminated by either party:-

- (a) Mrs. Hatton shall notify JFSC and JFSC Property in writing within one month after the date of the termination of her employment of either her intention to

purchase the property in her own name, or of the identity of the third party purchaser as the case may be;

(b) Provided that:

- (i) in the event that no such notice is served within the said time limit; or
- (ii) in the event that the sale or transfer of the Property shall have not been effected within three months after the date of termination of Mrs. Hatton's employment;

then in such event JFSC Property shall be entitled to sell the Property to a third party for the current market price and Clause 11 hereof shall apply.

11. In the event of the Property being transferred to Mrs. Hatton or a third party in accordance with either Clause 8 or Clause 9 of this Agreement:

- (a) Mrs. Hatton shall indemnify JFSC Property for any stamp duty payable on the transaction;

- (b) Mrs. Hatton shall pay the legal fees and any other fees incurred by JFSC Property and the JFSC incurred in the transaction; and
- (c) Mrs. Hatton shall discharge any monies that be outstanding to the Bank pursuant to the Loan and enable the release of any judicial hypothec on the Property or charge on the issued shares in JFSC Property and shall save JFSC Property harmless against all other costs, fees or claims arising from such transfer or sale.
- (d) the Interest Free Loan shall be deemed to be discharged in its entirety.

12. In the event that:

- (a) the Property shall be transferred to Mrs. Hatton pursuant to Clause 8 hereof then in such event other than as aforesaid there shall be no consideration payable on the transfer of the Property or the shares in JFSC Property as the case may be;
- (b) the Property shall be transferred to a third party pursuant to Clause 9 hereof then in such event the consideration monies arising from such transfer of the Property or the shares in JFSC Property (less the sum of any stamp duty or fees Mrs. Hatton has hereby agreed to discharge) shall be remitted to Mrs. Hatton as soon as may be having due regard for established practice in this jurisdiction.

- (b) Mrs. Hatton shall pay the legal fees and any other fees incurred by JFSC Property and the JFSC incurred in the transaction; and
- (c) Mrs. Hatton shall discharge any monies that be outstanding to the Bank pursuant to the Loan and enable the release of any judicial hypothec on the Property or charge on the issued shares in JFSC Property and shall save JFSC Property harmless against all other costs, fees or claims arising from such transfer or sale.
- (d) the Interest Free Loan shall be deemed to be discharged in its entirety.

12. In the event that:

- (a) the Property shall be transferred to Mrs. Hatton pursuant to Clause 8 hereof then in such event other than as aforesaid there shall be no consideration payable on the transfer of the Property or the shares in JFSC Property as the case may be;
- (b) the Property shall be transferred to a third party pursuant to Clause 9 hereof then in such event the consideration monies arising from such transfer of the Property or the shares in JFSC Property (less the sum of any stamp duty or fees Mrs. Hatton has hereby agreed to discharge) shall be remitted to Mrs. Hatton as soon as may be having due regard for established practice in this jurisdiction.

16. The proper law of this Agreement shall be the law of Jersey.

IN WITNESS WHEREOF the parties have hereunto set their hands at Saint Helier in the Island of Jersey aforesaid on the day and in the year first above written in the presence of the undersigned witnesses.

THE COMMON SEAL of
JFSC PROPERTY LIMITED
was duly affixed in the presence
of:-

.....
Director

.....
Secretary

SIGNED BY HELEN [
] HATTON (née [
]) in the presence of:-

.....
Witness

SIGNED by [SENATOR F. H. WALKER, Chairman] of the JERSEY FINANCIAL SERVICES COMMISSION in the presence of:-

.....
Witness

SIGNED by [], Director of the JERSEY FINANCIAL SERVICES COMMISSION in the presence of:-

.....
Witness

SIGNED by [SENATOR F. H. WALKER, Chairman] of the JERSEY FINANCIAL SERVICES COMMISSION in the presence of:-

.....
Witness

SIGNED by [], Director of the JERSEY FINANCIAL SERVICES COMMISSION in the presence of:-

.....
Witness

Formal consent was granted to that transaction by the Housing Committee on 28 June 1999 confirming your right to occupy the property on a service basis for the duration of your full time employment with the Jersey Financial Services Commission as Deputy Director General.

I would confirm that from all the information available the acquisition of this property by a property holding Company wholly owned by the Jersey Financial Services Commission, and your occupation of it whilst in that Company ownership, was entirely consistent with the terms of the consent granted to the Commission by the Housing Committee. Furthermore, this means of occupation as an essential employee is similar in nature to virtually all other purchase transactions following consent granted for approved essential employees.

Yours sincerely

Peter Connew
Director of Housing Control

☎ 01534 884404
✉ p.connew@gov.je
website: www.housing.gov.je

Letter from Mr. Colin Powell to the Editor of the Jersey Evening Post

JERSEY FINANCIAL SERVICES
COMMISSION

From the office of the Chairman

Telephone: + 44 (0) 1534 822114

Fax: + 44 (0) 1534 822001

E-mail: c.powell@jerseyfsc.org

The Editor
Jersey Evening Post
PO Box 582
Five Oaks
St Saviour
JE4 8XQ

Our Ref: GCP/AMV D10-009

Date: 8 March 2005

Dear Sir

I was very pleased to read in Saturday 5 March edition of the JEP that Senator Ted Vibert has removed from one of his websites some highly offensive and disgusting remarks made about the Deputy Director General of the Jersey Financial Services Commission. I do hope he will go further and remove other allegations about both the Deputy Director General and the Director General which in letters written to him they have shown to be incorrect and unjustified. Websites often contain inaccurate, unjustified and offensive comments but the important difference in this case is that the website is in the name of a Senator of the States.

Of course the Financial Services Commission and its officers are not above being publicly criticised, but that criticism should be fair, reasonable, accurate and objective. At the end of last year I offered to meet with Senator Vibert to discuss his concerns about the Commission and its officers. Regrettably he has not to-date taken advantage of my offer which still stands.

The Commission is not wholly unaccountable as the Senator and some others have suggested. There is a need to satisfy the International Monetary Fund and other international standard setters who insist that a regulator should be independent of Government. At the same time the Commission has always been accountable to the States, and thereby to the wider public, and all regulatory decisions of the Commission are open to appeal to the Royal Court.

Under the Financial Services Commission (Jersey) Law 1998 the Economic Development Committee has political responsibility for the Commission and there is a formal Memorandum of Understanding between the Committee and the Commission.

Commissioners are appointed by the States, and those recommended by the Economic Development Committee for appointment are selected in accordance with procedures agreed with and monitored by the Jersey Appointments Commission whose remit extends to the Financial Services Commission – and a similar process applies to the appointment of the Director General and other senior positions in the Commission.

I should also point out that, while the Commission may recommend legislation, whatever eventually comes into force is the product of full consultation with the finance industry, is subject to approval by the Economic Development Committee and is only enacted if it is adopted by the States.

The Commission on its own initiative has been discussing with the Economic Development Committee for some time how best an independent audit of the Commission might be undertaken, and also how best to establish a procedure for an independent investigation of complaints including those against the Commission.

The Board of Commissioners oversees the work of the Executive, and the fact that the Board membership includes three eminent persons from outside the Island is particularly valuable in this respect. These three have been particularly concerned at the way the Island is being portrayed through websites promoted by a Senator of the States.

The Commission has total confidence in the Director General and the Deputy Director General; and indeed in the staff of the Commission overall. Their professionalism and integrity is of the highest standard. The quality of the Island's regulation is a key element in how the Island is perceived by other authorities, and by those interested in the Island as a business location. Without doubt if we were to lose the Director General and the Deputy Director General, because of the inaccurate and unjustified personal attacks on the Senator's website, this loss would impact not only on the Commission but also on the finance industry and the Island as a whole.

If there are criticisms or allegations that need answering let them be dealt with in a fair, reasonable and objective way through an informed, independent process with which we in the Commission would be more than happy to participate.

Yours faithfully,



Colin Powell
Chairman