

8. Statement by the Minister for Treasury and Resources regarding the administration of Woolworths

8.1 Senator P.F.C. Ozouf (the Minister for Treasury and Resources):

Members will recall that further to the administration of the Woolworths group of companies in January 2009, the administrators terminated the contracts of employment of all Woolworths' Jersey employees. On the 4th of February 2009 Members voted in favour of providing financial compensation in accordance with the U.K. Redundancy Scheme, 38 former employees received compensation payments in return for each person entering into a formal deed of assignment to enable the States of Jersey to reclaim the compensation paid from the administrators. Subsequently, under a consent order approved by the Royal Court, the Viscount was empowered to receive the sales proceeds from the Jersey real estate sold. The Viscount subsequently received approximately £1.3 million from the sale of the real estate. Claims were lodged with the Viscount in respect of £93,661 for compensation paid to the former Woolworths employees, as well as unpaid I.T.I.S. (Income Tax Instalment System), G.S.T. (Goods and Services Tax) and income tax. The final total of these claims amounted to £135,185 with further Jersey creditors bringing the total value of unsecured creditor claims to £524,503. The administrator sought to argue that funds held by the Viscount should be remitted to the administrator's account in the U.K., this would have meant that Jersey unsecured creditors received nothing. Lawyers for both the Viscount and the Treasury opposed such a transfer, arguing that the Jersey unsecured creditors should be paid in full. Ultimately the issues raised would have been for the Royal Court to determine. Arguing the case in the Royal Court would necessarily have resulted in substantial legal fees being incurred by all parties, much of which would have been irrecoverable. In the circumstances, without prejudice negotiations took place between the parties' advisers to explore whether contested proceedings could be avoided. Negotiations concluded in what is considered to be a commercial, pragmatic settlement subject to creditors' consent and Royal Court approval. Creditors were notified and the Royal Court approved that settlement on 27th September 2010. I approved the proposed settlement on the advice of legal advisers employed by the States to represent our interests in this matter. The proposed settlement was also reviewed by the Attorney General who was asked to indicate whether he thought that the settlement was one which I could properly enter into as being in the interests of the States. I am, therefore, now able to make this statement.

[12:30]

Under the settlement arrived at, the States legal fees are to be paid in full, agreement has also been arrived at in respect to the Viscount's fees and charges. The result of this settlement is that all Jersey unsecured creditors are to receive a payment approximately 76 pence in the pound. This results in an additional £103,611 being received by the States of Jersey. The administrators also paid all G.S.T. and I.T.I.S. in connection with the Jersey store incurred during their appointment and up until it ceased trading. I would like to recognise the work of our advisers in achieving this positive outcome; I believe this represents a good result, not only for the States of Jersey but all Jersey creditors. **[Approbation]**

8.1.1 Deputy J.M. Maçon:

The Education and Home Affairs Panel have been following this issue and I would like to echo the sentiments brought by the Minister for Treasury and Resources regarding the legal advisers and the Viscount who I think have behaved in a very professional manner. But my question is how much does it leave us short?

Senator P.F.C. Ozouf:

The settlement is 76 pence in the pound. I have not got the working with me but I will do it on my calculator outside and send the Deputy the results. But all of the costs. Certainly we have changed the Income Tax Law subsequent to this event, making G.S.T. and I.T.I.S. and all those other matters as absolutely 100 per cent guaranteed as secured creditors. There is a shortfall but, in the circumstances of the legal costs, I think this does represent very good value for the public and I am grateful for the Deputy's comments.

The Deputy of St. John:

Can I declare an interest and retire? I was not aware that this was coming up today.

8.1.2 Deputy I.J. Gorst:

Unfortunately it is not quite a question, I just wanted to add my congratulations, particularly to the Viscount's Department and Law Officers' Department for what I believe is an excellent settlement they have negotiated on behalf of the people of Jersey and I would like to personally thank them for the work that they have undertaken on our behalf. Thank you.

8.1.3 Deputy P.V.F. Le Claire:

I wondered if that was a question, because I would also like to try to frame something in that vein. Will the Minister, in recognising the good job of work that has occurred here in this instance, also recognise the political efforts that were made on behalf of the employees at Woolworths by Deputy Southern in particular, and his colleagues, in helping to achieve this? There was a debate, a lengthy debate, and there certainly was a political strain to get this process underway for those people, and in recognising the good job of work that has been done by States departments and lawyers on behalf of the Crown, would he also recognise the good work that has been done by the Deputies?

Senator P.F.C. Ozouf:

I certainly would. I think that this has been an example of almost politics at its best in terms of bringing something to attention, debating something in the Assembly, and making a difference. We have all learned of the tragic circumstances of redundancies and bankruptcies and the effect that can have on individuals. Of course Ministers are put into a difficult position having to defend budgets *et cetera*, but on this occasion we have had a debate, Ministers have worked hard - Social Security particularly in dealing with the employees - and a good result has been taken out. I am not a lawyer but there has been no declaration about the issue of Jersey creditors versus U.K., but certainly this is an important decision, a negotiated position which sends out a clear message of the position that the States will take.

8.1.4 Senator J.L. Perchard:

Will the Minister accept my congratulations on the outcome of this, and does he agree that it is good fortune that indeed Woolworths P.L.C. (Public Limited Company) owned property on the Island? It is good fortune only and hence we get a conclusion to our reasonable satisfaction. Could he then take on board the suggestion that any company trading on the Island that is non-locally owned, that owns assets on the Island, must register those assets on the Island with a company that is locally registered, rather than a company trading here but could own the properties outside the Island?

Senator P.F.C. Ozouf:

There are certainly lessons to be drawn from this experience and I have not had a chance yet to discuss with my colleagues on the Council of Ministers what the lessons are and any further corrective action that needs to be taken. The Senator is correct in saying that because the

company owned property - valuable real estate - a claim was able to be made. That is not the case in all circumstances. The Minister for Social Security is certainly now progressing the matter of the statutory scheme for redundancy and if there are any other lessons that can be learned we will take them. Clearly we do not want to see bankruptcies, we want to have a healthy economy which stops this, but sometimes matters completely outside of the Island affect businesses and we will certainly have a wrap-up session now the settlement has been made.

8.1.5 Senator J.L. Perchard:

Indeed lessons have been learned, but lessons will be learned by companies trading on the Island that are not owned by Islanders and they will then learn from this lesson that they should perhaps, if they own property, register that property in ownership of the company outside the Island. Will the Minister take on board this serious opportunity to ensure that should we have another désastre that we insist that properties owned by companies are registered in ownership on the Island to ensure that should this happen again we are in a position to recover costs?

Senator P.F.C. Ozouf:

I am certainly happy to look at that but if the Senator is asking for us to create a significant bureaucracy of registering property in the event of bankruptcies, I would not want to do that. Certainly, as far as Jersey Woolworths is concerned, they owned assets in Jersey and if they are a foreign owned entity they are going to have assets elsewhere. Well, which assets can be ring-fenced for the Jersey activity? This is a very complex area. I am happy to agree to look at it and I take the point that he takes and we will do our best to deal with any loopholes or lacunas.

8.1.6 Deputy G.P. Southern:

I am just looking at the numbers, as is my wont, and apart from feeling glad to be alive and active in politics, I note that there is something like a total of £800,000 worth of payments. I might have assumed that was paid at 76 pence in the pound, which is about £600,000 paid to various authorities on the Island, or various people on the Island, out of a total of £1.3 million on the settlement. Does that mean that something like £700,000 went to the U.K., is that the sort of divvy-up? Is that the way it has worked in this end, this agreement?

Senator P.F.C. Ozouf:

Following the discussions between the different parties, the 76 pence in the pound dividend was the settlement that was agreed. So, yes there was, and that was a judgment. I have been briefed all along in relation to the discussions and there was a trade-off, at the end of the day, to be taken as to whether one would engage in potentially a court action that might not have been successful. The advice was strong, however, not certain of course and I am not going to say anything in relation to what the Royal Court may or may not have decided. This was a negotiated settlement which was pragmatic and in the interests of all the parties and particularly the States of Jersey.

8.1.7 Deputy G.P. Southern:

In particular, the payment of £93,000 to the former employees, we have got that back in terms of 76 pence in the pound. I remember the arguments we had about we would be able to reclaim a substantial amount from this payment. I am glad to see it worked.

Senator P.F.C. Ozouf:

I believe that is exactly the case. We recovered 76 per cent of them. Having said that, there have been costs incurred, I regularly saw people from Social Security signing-off the declarations, there is a great deal of work that has been done and effort made as we have already said.

8.1.8 Deputy A.E. Jeune:

Perhaps, if I may, I could reassure Senator Perchard that the Legislation Advisory Panel do have this on their agenda and we can now progress being as this matter has now been concluded. Thank you.

Senator P.F.C. Ozouf:

I am very reassured to hear it.

8.1.9 Deputy I.J. Gorst:

I was going to issue a question or comment in a similar vein. I am not certain that Senator Perchard is looking at this from the correct angle. Was it not the fact that it was a Jersey-situ asset which had to go through the Royal Court that enabled the monies to be put aside in the way that they were, rather than it being owned by a Jersey or a non-Jersey company, therefore, I perhaps could put the Senator's mind at rest in that respect.

Senator P.F.C. Ozouf:

I am not a lawyer and not an expert in these matters. I act upon advice and I am grateful for the clarifications that the 2 previous questioners have made.