

Toby Brookfield

From: Paul Kelly
Sent: 25 April 2006 11:08
To: Toby Brookfield
Subject: FW: LBA

From: Billy Grace [mailto:billy.grace@careyolsen.com]
Sent: Fri 21/04/2006 18:16
To: Paul Kelly
Cc: Robert Clifford; Clair Sanders
Subject: LBA

Paul

Thank you for providing me with various documents which I have considered carefully. My draft letter to JFSC will be with you by 9.30 on Monday morning subject only to the new requests made below. I will also provide to you written advice by that time in relation to the filing of an SAR and other issues so that you have in place Jersey advice proportionate to the issues from a Jersey perspective. I will try and keep that advice as brief as possible but it is looking a little longer than 2 pages.

I have considered the SAR issue and that written advice will say that there is a sensible basis for filing an SAR in Jersey. It is exceedingly unlikely that Jersey's AG with his generally bullish attitude and particular attachment to corruption and SCB will not want to investigate allegedly corrupt payments passing through a Jersey bank account with a view to a Jersey prosecution. An institution outside of Jersey is as capable of being caught up in that investigation and at risk of charge (as are directors and staff) as someone in Jersey. Accordingly Investec Guernsey should file an SAR in Jersey. Because of Ian Burn's position within Investec Jersey it is also advisable for Investec Jersey to file an SAR. While one may hope or expect that any criminal investigation against Investec is constrained to Guernsey, that cannot be guaranteed and, as my advice will show, there is a clear potential for offences being charged in Jersey. The risk is relatively much higher for Investec Guernsey than Investec Jersey. The SAR is needed because of the practical risk of prosecution and not merely because it will please the authorities or that it is an over cautious reaction to a serious situation. It is the product of clear and rational analysis and accordingly justified on any reasonable basis.

The following points are made with due respect to the fact that my role is not to comment on the Guernsey advice or compete with it. You want your advisers to work together for your common good. However there are matters arising from the Guernsey advice which impact on what I need to advise you on. Accordingly I am not criticising the Guernsey advice.

Jersey. We will not be able to assume that Jersey's regulatory and investigatory authorities will let Guernsey both take the lead and be solely responsible for the outcome of this matter.

In order for me to complete my task I need a limited amount of further information from you. Please can you provide me with a list of any principal persons who are principal persons in both islands in addition to Ian Burns. We must be sensitive to the links between Investec Jersey and Guernsey and the extent to which they extend beyond Ian Burns being a principal person in both islands. Beyond the principal person issue it would be helpful if you could put together a short paragraph on the extent to which there is structural or operational overlap between the two islands. This is a material fact for the JFSC to take into account even at this early stage.

Please advise if you have been served yet with any form of production order in either island.

Regards

Billy Grace

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