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**3.17 Deputy G.P. Southern of the Chief Minister regarding explanations received from the Jersey Financial Services Commission regarding reasons for the establishment of Panamanian companies by Jersey-registered companies:**

Has the Chief Minister or the Council of Ministers received an explanation from the Jersey Financial Services Commission as to the reasons for the establishment of over 1,400 Panamanian companies through Mossack Fonseca by Jersey-registered companies detailed in the documents known as the Panama Papers?

**Senator I.J. Gorst (The Chief Minister):**

Jersey-based trust companies and other financial institutions are all regulated by the Jersey Financial Services Commission. These regulated entities will incorporate companies in multiple jurisdictions according to the specific requirements of their clients, whether that be in Panama, Cayman, New Zealand or the U.K. Whichever jurisdiction is used it is the Jersey legislation and regulation that must be applied to the identification of the client. This includes capturing beneficial ownership information, the purpose of the business relationship, the monitoring of transactions and all other due diligence requirements. I am satisfied that the Commission is taking all necessary steps to ensure that regulated entities are complying with its regulatory requirements when incorporating companies on behalf of their clients.

**3.17.1 Deputy G.P. Southern:**

The Chief Minister in his written answer to question 9389 states clearly: "The case-by-case review by J.F.S.C. (Jersey Financial Services Commission) has revealed no significant concerns of inappropriate conduct by Jersey financial service practitioners." When he was last asked the question he said, as a mere accountant, he could not possibly give me reasons as to what would be a legal establishment of a company in Panama. Has he asked the J.F.S.C. what these perfectly legal mechanisms are doing to 1,400 cases of establishing companies in Panama? What is the legitimate reason why that should be occurring?

**Senator I.J. Gorst:**

That is exactly the same question that the Deputy asked at the last States sitting and I gave him the answer. He seems to be cherry-picking what I said, that these claims are advised appropriately by financial advisers and there could be any myriad combinations about why individuals would want to choose to use a Panamanian company, a B.V.I. (British Virgin Islands) company, a Cayman company, a New Zealand company, a U.K. company, and it is not possible for me to go into the myriad of reasons why that might be, all of which are perfectly legitimate.

**3.17.2 Deputy M.R. Higgins:**

Let me be a bit more specific for the Chief Minister: can the Chief Minister foresee any reason why a Jersey-based company would set up a shell company in Panama, bearing in mind that most money launderers have companies in numerous jurisdictions trying to hide what is going on?

**Senator I.J. Gorst:**

The Deputy appears to be getting confused. I am not sure what he means by "shell companies". One would normally use the term "shell company" when one was trying to indicate that the company had no legitimate legal purpose and the information about that company or client or beneficial owner using that company was not known. When a Jersey entity uses such a company, the Jersey adviser knows who the beneficial ownership is, they know the legitimate reasons for using

that company and they are appropriately regulated and inspected by the Jersey Financial Services Commission.

**3.17.3 Deputy M.R. Higgins:**

I would like to know why the Chief Minister is so confident in that statement he has just made because I think it will come back and bite him as more revelations come back.

**The Deputy Bailiff:**

“Why are you so confident?” I think is the question, Chief Minister.

**Senator I.J. Gorst:**

Because the regulation is in place to ensure that that takes place, that is why I am confident. I think the Deputy used to be employed by the Jersey Financial Services Commission, so he also should share my confidence.

**Deputy M.R. Higgins:**

I do not.

**3.17.4 The Deputy of St. Mary:**

As someone who in a previous life was involved in incorporating and administering companies for the best part of 35 years or so I can advise that I did indeed incorporate companies in jurisdictions other than Jersey and I was subject to the same ...

**The Deputy Bailiff:**

Deputy, this is question time; can you ask a question?

**The Deputy of St. Mary:**

If I just come on, Sir ... would the Chief Minister, just for clarification purposes, confirm that I am right in believing that, in doing so, I was subject to exactly the same regulations as I was in incorporating a Jersey company and there is no shame or untoward intention in forming a company outside this Island?

**Senator I.J. Gorst:**

I thank the Deputy for his question. He is absolutely right, there can be many legitimate reasons why such a company should be set up. It seems that some Members of this Assembly are keen to criticise our financial services industry without understanding what they do or why they do it. Some individuals and some clients simply have a pre-position to a particular geography. When they are using Jersey they still have to comply with the regulations of Jersey. This is one of the reasons why we do travel the world, is to encourage people to use Jersey more, to encourage people to use and set up Jersey companies because we want them to understand the benefits that can be delivered from doing so.

**3.17.5 Deputy M Tadier:**

There is common ground because we, like the Chief Minister, believe that the reputation of Jersey's industry is important and that, moreover, the ethical considerations of that industry are important, not just for reputational reasons. The question has to be to the Chief Minister: can he give an assurance to us and the public that no Panamanian companies that were created through Mossack Fonseca by Jersey-registered company have been, or are being used, for legal but aggressive tax avoidance, evasion or money-laundering? That is the question. Is the Minister satisfied that he

knows the answer that none of those companies have or are being used for those 3 purposes mentioned?

**Senator I.J. Gorst:**

Once again the Deputy shows a complete misunderstanding of how regulation works. Just like I cannot say that any individual in our community is not committing a crime, so I cannot say, standing here, that individuals in a particular sector may be acting in a way which we consider is inappropriate and is in non-compliance with the law. But what I can say is that I have confidence in the ability of the Jersey Financial Services Commission with their on-site visits, with their regulation, with their reviews, to ensure that we are meeting the highest possible international standards. I think that Members, if they understood that, would have the same confidence that I have.

**3.17.6 Deputy M Tadier:**

It is not for the Minister to speculate as to what one's understanding is about the question being asked but rather to give an answer. The Minister on many occasions has not simply just talked about combating evasion and money-laundering, which of course should go without saying, but the fact that he has given a commitment also to aggressive tax avoidance, as has the U.K. So can he just confirm that he cannot give us an assurance today that any of those companies are currently being used for aggressive tax avoidance purposes?

**Senator I.J. Gorst:**

The assurance I give or cannot give can be rounded all together. He knows the statement that I made back in 2012, and some people criticised me for it, and the work that has been ongoing with the regulator and with the financial services promoter. All members of Jersey Finance now have agreed to a code of conduct around aggressive and abusive tax avoidance, the financial services regulator is aware of the government position and is mindful of that when it is undertaking reviews. We are liaising with H.M.R.C. (Her Majesty's Revenue and Customs) in the U.K. with regard to D.O.T.A. (Disclosure of Tax Avoidance) schemes, and those systems are working. But can I give a categorical 100 per cent assurance? Of course I cannot, just as I cannot regarding whether there is any illegal activity taking place by any member of our community. It would be foolhardy to do so. What we can do in this Assembly is make sure that we have got the very best regulation law enforcement agencies in place and that we are meeting international standards. That goes for any area of our community.

**3.17.7 Deputy G.P. Southern:**

The Chief Minister proudly spoke of encouraging people around the world to set up Jersey companies, however, what we are talking about here is Panamanian companies. Can he come to the House with a concise list of what he calls "legitimate purposes" might be for us setting up Panamanian companies?

**Senator I.J. Gorst:**

I understand that the members of Reform Jersey get frustrated when I cast aspersions on their understanding of what is an important economic driver of our community ...

**The Deputy Bailiff:**

Let us not do that.

**Senator I.J. Gorst:**

Sir, they will persist in asking questions to which it is patently obvious they do not understand what the answer would be. The answer is, as I have explained to Members of this Assembly, there are many myriad reasons why any individual client would be advised by a financial adviser to legitimately incorporate a company anywhere else in the world. The important thing for us is that, if they do that through Jersey, they are appropriately regulated, they know who the beneficial ownership is and they have got reasons on file about why that is a legitimate course of action for that particular client to take.