

STATES OF JERSEY
Economic Affairs Panel
Role and Funding of Jersey Finance Limited

MONDAY, 17th DECEMBER 2007

Panel:

Deputy G.P. Southern of St. Helier (Chairman)
Deputy J.A. Martin of St. Helier
Deputy K.C. Lewis of St. Saviour

Witnesses:

Mr. G. Grime
Mr. M. De Forest-Brown

Deputy J.A. Martin of St. Helier (Deputy Chairman):

Good morning. I am sorry, we are running a bit late. I am Judy Martin, the Deputy Chairman, and to my right is the Chairman, Deputy Southern, and Deputy Kevin Lewis, and our Scrutiny Officer, Elizabeth Kingston. I am sorry, you are Mr. Grime, but I do not know who ... if you could introduce yourself.

Mr. M. De Forest-Brown:

Sorry. Martin De Forest-Brown. I am the Accounting Officer for the J.F.L. (Jersey Finance Limited) grant.

Deputy J.A. Martin:

Oh. Fine, thank you, just for the Hansard and the tape. Really, I would just like to start off, Geoffrey, with reading back on minutes. We have just had a discussion with Maurice Dubras that the minutes are not always accurate. But I seem to be reading that from sometime in late 1999 to early April, even July 2000, Geoffrey Grime was going to committee meetings as an executive chairman for Jersey Finance Limited. At that time, there seems to have been no funding paid. Sorry if I am rabbiting about dates, but Maurice has just confirmed that Jersey Finance Limited was incorporated in August 2000. Again, there is a retrospective note to say in December 2000 Jersey Finance commenced an undertaking to promote Jersey. Am I missing something, or

was there a company set up for the purpose of promoting Jersey Finance but there was no finance in place until at least 6 months after?

Mr. G. Grime:

Would it be helpful if I just gave you a sort of chronology?

Deputy J.A. Martin:

Yes. If you could, maybe we have got it all wrong.

Mr. G. Grime:

In the spring of 1999, I happened to be sitting before the meeting began with Senator Walker and Richard Pratt. Richard Pratt was then the Director General of the Financial Services Commission. We were talking about the *Edwards Report* that had been issued in 1998, and as I am sure you know, the *Edwards Report* said that the regulator could not also be the promoter. I was about to retire in June 1999 from being Chairman of Abacus, and I said to Senator Walker and to Richard Pratt: "Why do we not set up a separate entity to deal with the promotion of Jersey?" So that, as I say, was in the spring of 1999. I retired in June 1999, and then started work on putting together a company, the sole purpose of which would be to promote Jersey as an international finance centre, and one or 2 other things which I will come on to in a moment. The company was formed on 29th August 2000. It did not have any funding at that stage. I still had an office at Abacus and I had been working on my own with a small group of people on an honorary basis to get the company up and running. As I said, the company was incorporated in August 2000, and on 1st May 2001 it took on 2 employees, Phil Austin as chief executive, and his personal assistant, Anne Hislop. I was the chairman of the company at the time. So, that is some of the background as to how it started.

Deputy G.P. Southern of St. Helier:

You say the company was set up to promote Jersey in the round, in the whole, as it were.

Mr. G. Grime:

No. The company had 2 objectives at the beginning. One was to promote the Island as an international finance centre; and secondly, to promote the industry within the Island. So, I accept that there were other initiatives going on at the time, which then Deputy Dubras was involved with in the Industries Committee about promoting the Island generally. But, as I said, coming back to the *Edwards Report*, because the specific mention had been made of the Commission not being able to promote the Island from the financial services point of view, that is why the company was set up.

Deputy G.P. Southern:

Can I draw your attention to the funding of J.F.L., because that is the starting point today? We will explore other issues, I am sure, today, but we start with the basis that J.F.L., in its being set up, had no members and could not charge subscriptions until it was up and running, and therefore needed seed money, as it were, to start up. I believe that amounted to something like £150,000 in 2000, and £500,000 in 2001. What is your recall of what the arrangement was to be for the ongoing funding of J.F.L.?

Mr. G. Grime:

Right from the beginning, it was going to be a joint venture, partially funded by Government and partially funded by the industry. You are right, on 13th November 2000, the Finance and Economics Committee agreed to give Jersey Finance a grant of £150,000 for the year 2000, £500,000 for the year 2001, and then £250,000 thereafter, but on a matched basis. I am now talking about 2002, because we did not have members until 2002. We sent out subscription notices at the end of 2001, and we knew we would have to raise more than £250,000 before the States would give us the £250,000 which they had promised. As it happened, we did raise more than the £250,000. But it was always agreed, right from the beginning, that it was going to be a joint venture.

Deputy G.P. Southern:

That it would be matched funding, and that you were talking about 50/50?

Mr. G. Grime:

Matched funding initially, yes, and in fact, as I said, in the year 2002, the subscriptions raised by Jersey Finance were £344,000 from the members, and the States' grant was £250,000. I think I asked for a bit more at the time and was told I could not have it. But never mind; we were up and running, and as I say, it was always agreed that it would be jointly funded.

Deputy G.P. Southern:

Can I refer you back to the *Edwards Report* and the separation of promotion activities from J.F.S.C. (Jersey Financial Services Commission), and the need to have that distinction, and hence the need for J.F.L.? Could you tell us some more about that, and why is that important? In particular, initially we come across minutes from 2000, saying: "Initial funding will be through, or from, the J.F.S.C."?

Mr. G. Grime:

Well, there has been a good deal of confusion about this, which I will come back to in a moment. But I guess what Edwards said was that it was not right for a regulator to be a promoter, because there could be a conflict, and I guess you could envisage a situation where the regulator was going out promoting the Island, and some business was coming in, but then as a regulator it would not approve of. So, from that point of view, Edwards said you should not go there, you should separate the functions. So, the functions were separated. We had a meeting in 2000 at the Grand Hotel when we got a group of the finance industry there and we said: "Look, we are going to set up this company." We were really seeking support from the industry, and the joint funding was then being talked about. One individual got up at that meeting and said: "Well, look, we the industry pay our licence fees to the Financial Services Commission. Part of those licence fees in the early days are for promotion, so we should get a refund of our licence fees." Senator Walker stood up and said he could understand the logic of that but the industry would not get a refund of its licence fees but what would happen is that government would give a grant of £250,000 to get the thing up and running. So the confusion was, I suppose, that the industry said that in the amount that it paid by way of licence fee, a portion of that would be earmarked for promotion and therefore it was right that there should be a refund. But, as I say, it was agreed there would not be a refund but government would make the grant of £250,000.

Deputy G.P. Southern:

So would you say that the statement we have from 2003 from John Harris suggesting: “It is important to realise that the seed funding was granted by the then F. and E. Committee as a substitute for rebates to industry in respect of their overall contributions to the States via regulatory fees in excess of regulatory needs which ends up each year in the States’ coffers.” That is an accurate statement of the way it was presented, certainly by Senator Walker, at the time, to say: “All right then, if we are charging you for something we are not delivering we will do it through J.F.L. and this will be in lieu of a rebate.”?

Mr. G. Grime:

Yes. That is absolutely right.

Deputy G.P. Southern:

Can I then ask about ... moving on, because at one stage we had 3 bodies either regulating or representing the industry. We had J.F.S.C., J.F.L. and J.F.I.A. (Jersey Financial Industry Association) the industry association.

Mr. G. Grime:

Yes.

Deputy G.P. Southern:

Now J.F.I.A. has been subsumed in J.F.L. Can you tell us something about that process and how that occurred?

Mr. G. Grime:

Yes, going way, way back there was a body referred to as Labco which was an informal grouping of lawyers, accountants and bankers, hence the name. It was informal. But if the States wanted to introduce a new law, for example, it would go out to consultation and Labco tried to draw the strings together of all the different professional bodies, either in lawyers, accountants, bankers, trust companies, fund managers or whatever. Labco was formalised when the J.F.I.A. was set up and the J.F.I.A. was basically a grouping of the professional bodies, again lawyers,

accountants, bankers, fund managers, et cetera. Its only function, really, was to look at some proposed laws and that sort of thing and give an industry view to government on those laws. The problem with Labco and J.F.I.A. was that they had no permanent staff. No secretariat. It was down to the professional practitioners to deal with these consultation papers in their own time, if you like. Once Jersey Finance was up and running it seemed logical to merge J.F.I.A. with Jersey Finance because, of course, Jersey Finance did have a physical presence in staff. So, it could act as secretary for the industry, if you like, in dealing with these consultation papers. It still does that today in that it now has a technical division and it will set up a committee to deal with a particular issue. That committee will be manned by professionals from the industry who will give their time for nothing and that is a great assistance to the regulator, if it is a regulatory law change or government if it is a tax law change or company law change, for example.

Deputy G.P. Southern:

To what extent could that activity be described as promoting the interests of its members? Because there is, I think, when you have J.F.L. with a broad remit of tasks it is attempting to do, one of which was the J.F.I.A.'s role, to promote the industry, to promote the interests of its members, what extent does that create a conflict between government funding for effectively what is partly a lobbying group in the interest of its members?

Mr. G. Grime:

I said at the beginning that Jersey Finance had 2 roles. To promote Jersey as an international finance centre and to promote the industry within the Island. It now has a third role, a technical role which I have just outlined. It has always been understood that government funding would not be used for anything that could be considered as lobbying and that government funding would be used for the promotion. If you look at the numbers it is very clear that the costs of the technical division of Jersey Finance fall well within the amount raised by way of subscription, which this year is about £420,000, which the industry subscribers pay into Jersey Finance. It was always accepted that it would not be a proper use of government money if that government money was given to an organisation that then lobbied government. I would actually like to put a more constructive aspect on that and quote real examples of things that

are happening currently in Zero-Ten and G.S.T. (Goods and Services Tax) where you get a meeting with the Minister and his advisers and the law draftsmen on the one hand and industry members on the other who are constructively feeding into this process. I always like to put it that we are actually all on the same side here, we have to have a law, so let us pool our resources and expertise into making it practical, workable and as least bureaucratic as possible.

Mr. M. De Forest-Brown:

Can I just add a couple of points there. I think the key point is just to identify that there are no resources elsewhere in government to inform, debate, develop laws which are, by their nature, extremely complex. Mr. Grime has mentioned the G.S.T. and the Zero-Ten, both of which have benefited from very substantial time put in by industry members. So typically each of those bodies will have about 10 working members who are permanently reviewing the law from several respects. Not least of which, simply; does it work in practice? Because with some quite convoluted clauses it is very easy to get into a position where your law simply does not work and it just does not read well. Obviously in a larger jurisdiction you would have the resources to really go through that in detail in government. So in Jersey - and you will find this is common in other jurisdictions - that type of work, that type of debating, making sure everything works, is outsourced to industry. So we do need to be very clear between the distinction between lobbying matters where actually government and industry might disagree on a matter, and those elements which are effectively R. and D. (Research and Development). It is development of our law, it is development of our tax, all of those aspects where we actually outsource that work to industry. I think that is an important distinction, which we do not have the resources for in government.

Deputy G.P. Southern:

Can I follow that up by suggesting that to an outsider perhaps, certainly on Zero-Ten, you appear to have a fast track to the Minister's ear on a particular amendment which did not come through Scrutiny, although they were studying it. To an outsider it appeared that you had the Minister's ear. In particular though I would like you to explore the end result of what has been negotiated in terms of G.S.T. with the finance sector? Because again that seems to me that there has been some special pleading

going on. Could you tell us more about the package that has finally come out for the finance sector with G.S.T. and the role that J.F.L., if any, played in it?

Mr. G. Grime:

We are not here to talk about G.S.T. I was just trying to explain that Jersey Finance gets together professionals to assist government in moving these things forward. I was picking up the lobbying point and, as I was saying, I was trying to turn it around to be more constructive. It is not a question of lobbying. It is a question of helping government move forward in these difficult technical areas.

Deputy G.P. Southern:

Nonetheless the package that has been arrived at over G.S.T. is markedly different for the finance sector than it is for any other sector.

Mr. G. Grime:

I think you will find that V.A.T. (Value Added Tax) type taxes do not normally apply to financial services sectors. What the Minister said here was that he had to collect between £5-£10 million from the finance sector which would not normally be done. The finance sector accepted that and set about suggesting a sensible and realistic way by which that could be done. Which is the stratified system whereby different rates are paid by different sectors of the finance industry to add up to this sum of between £5 million and £10 million.

Deputy J.A. Martin:

Sorry, as it was brought up, and I will not stick to G.S.T., I am just concerned which body it is now. We have the J.F.S.C., the Financial Services Commission regulator and if there is any problems that would be caused by this law being passed or done this particular way I would presume that that would be the body - more than Jersey Finance Limited - who is promoting our industry outside, which should be totally at arm's length against something internal. It comes back again to what the Chairman said, we are paying at in an arm's length to promote, to come back and lobby us on things that really I do not ...

Mr. M. De Forest-Brown:

Can we just clarify? There is obviously some confusion. J.F.S.C. have no part to play in this at all. They are the regulator.

Deputy J.A. Martin:

Yes, they are the regulator.

Mr. M. De Forest-Brown:

They are the regulator on regulatory matters and so that is totally separate to tax matters or areas in subjects such as G.S.T.

Deputy J.A. Martin:

They will change laws. We have just been to a big finance presentation from them that laws need to be changed and they explained to government why they needed to be changed.

Mr. M. De Forest-Brown:

I agree that the regulator changes regulatory laws. Laws that are required for regulatory matters. This is a tax matter and has nothing to do with the J.F.S.C. On the point of G.S.T. - and we should note that there is a separate Scrutiny Panel that is reviewing G.S.T. so we should just treat this as an aside. The fundamental point is these are very complex laws, Zero-Ten, G.S.T. Most of the items that affect the finance industry. My simple question is, where should we, as a jurisdiction, deal with those laws? We do not have that resource and it would be a very, very significant resource to have that resource in government. If we put down any reasonable department that could explore, inform, debate those sorts of laws internally we would be talking about, of the order of 100s of 1,000s, if not at the level of £1 million at least, to have the sort of ability to review that. If you look at the G.S.T. panel around that table you will have 10 highly experienced, highly paid finance executives whose charge out rates would normally be of the order of several hundred pounds an hour, that is just a simple matter of fact. We get all of that input ... it is not just about what their view of it is, it is about the efficacy of the law, whether it actually works in practice. We get all of that input free. That is how J.F.L. adds additional benefit and how, if one is thinking in terms of match-funding, while we put in more cash in terms of £1 million grant, industry puts in free resource to contribute to those consultations.

Deputy G.P. Southern:

Okay, accepting that there is the potential for a conflict of interest there in terms of lobbying. What you are saying is we currently spend -- as long as the overall sums match then there is no conflict?

Mr. M. De Forest-Brown:

I think as long as the amount of money that members provide is more than the amount that is spent on lobbying. Let us be clear, technical is split into legal development which is in the benefits of the industry and in the benefits of the Island, and some of it will go into lobbying. It might be worth - not now but at another time - thinking about areas where government have specifically lobbied government where they fundamentally disagree with government's view. Actually I think that the amount of time and effort that has gone into that sort of activity is relatively limited because there is a joint understanding. We are actually blessed at this point with a good joint understanding of the needs of the Island in the competitive marketplace. So there will undoubtedly be cases where undoubtedly will be lobbying. But I think you will find that is pretty much a minority element.

Deputy G.P. Southern:

Okay, this is a topic that we may well return to in the new year. Can I just talk now about the process by which the funding has gone up from the original aim of matched funding, £250,000. Where it is now £1 million from government and let us say £400,000 from the industry. How did that come about? If we look at 2003 when the money started being requested, could you talk us through that Geoffrey, because obviously you are involved with one of 2 hats on? You were obviously the initial chairman and you were at one stage the representative of the government on the board?

Mr. G. Grime:

Yes, I have always been on the board. As Jersey Finance developed ... and just focusing still on the 2 initial objectives. The promotional objectives. It became clear that if we were going to promote the industry internationally, promote the Island internationally we would need more funds. So, in 2002, as I say, the States' grant was

then £250,000, the subscriptions were £344,000. We realised that we would need ... I mean we could say we need an infinite amount of money because the £1 million and the £420,000 that the members provide us with is not actually enough in this very competitive day and age for us to do what we want to do. We do take very careful soundings from our members about the geographical areas in which they would like us to be active. I can tell you there are many more areas that they would like us to be active in than we can afford at the moment. So as the years passed we sought more money and were very pleased with where we have got to at the present time. But we still need more.

Deputy J.A. Martin:

Sorry, can I ask. I think it comes back down to either a service level agreement or a partnership agreement. In the early days it ... Finance and Economics say the only condition -- it appears that the only condition attached to the States' grant was a 50/50 match and having a States Member on the board. My question is, where in your days, to say you needed more money, did you have a benchmark to what you were given to what you were actually achieving out in the industry?

Mr. G. Grime:

Well, so far as our revenue generation is concerned. Obviously there are 2 sources, the subscriptions from our members and the States' grant. We have always been totally transparent about this. Our accounts have been professionally audited each year. In 2004 we had an internal audit done by the States. What we were seeking to do was to increase our income so that we could promote the Island in more places and in greater depth. There was never any question of having to go back to ... well, it of course was, Finance and Economics in the first place and then the responsibility of the finance industry was passed to Economic Development at the end of 2003. We were just allowed to get on and run the company. There was always, initially in the early days, one government director, there are now 2. So, it was ... the government could always rely on feedback from those 2 directors if it felt or if it needed more information or to question what was being done.

Deputy G.P. Southern:

The audit report you have referred to actually on a scale of one to 5 scored 2 for adequacy of controls exercised by the States to ensure that accountability of the grant was -- their performance on that matter. Do you think that issue has now been addressed?

Mr. G. Grime:

Perhaps I could just put the thing in balance. For internal financial controls the audit scored 4 out of 5 but for accountability it was 2 out of 5. I guess at that time - this was Economic Development in 2004 - it was content that the company was being properly run and did not feel that any further controls were needed. As you know what came out of all that was the partnership agreement which was signed the following year. But to answer your question, yes, I think there has been significant change in recent years in that a greater flow of information to the directors, of whom 2 are States appointed directors. As I said right from the beginning, the thing was wholly transparent. Whatever those directors wanted to know, that information was available to them.

Deputy G.P. Southern:

I accept that things have been tightened up since. Do you not feel that giving a grant to Jersey Finance Limited without a partnership agreement, without a service level agreement, effectively was in breach of Code of Direction, of the time, number 26 about financial management?

Mr. G. Grime:

It depends which hat you want me to wear in answering that question. From Jersey Finance's point of view we had been given the money, we were operating properly, we had a properly constituted board of directors and corporate governance. I accept from the States' point of view that perhaps the service level agreement or the partnership agreement could have been signed earlier.

Deputy G.P. Southern:

Should have been signed earlier or could have been?

Mr. G. Grime:

Yes.

Deputy G.P. Southern:

Do you think?

Mr. G. Grime:

Yes.

Deputy G.P. Southern:

I mean Code of Direction 26 at the time suggested that some sort of arrangements should be there to say: "For the £250,000, what are we getting?" It was not.

Mr. M. De Forest-Brown:

I think part of this was ... I was not involved at the time so I am kind of looking back and trying to read the papers. But it looks as though for some period there was an extensive debate around this £250,000. So up until the end of, effectively 2003, the £250,000 was ... there was always this debate about whether it was a rebate. I would just like to be clear that I am kind of guessing in a way, I am looking backwards. But it does look as though there was this debate around the £250,000. The issue really probably raised its head when at a critical turning point it was recognised that J.F.L. could do a great deal more. There was a request for an additional £150,000 in 2003 which was a one off payment. Subsequently the funding went up to an additional £350,000 to £600,000 in 2004 and it was in that time that, obviously whoever at that time decided it was appropriate, now was the time to have a proper internal audit. It was during the first half of 2004 that the auditors reviewed it and decided now it was appropriate to have a partnership agreement or S.L.A. (Service Level Agreement). So I think ... my observation looking back on the way it is, it was quite reasonable post-£250,000 debate where there was a lack of clarity, that once you were moving beyond that that was the right time to start considering an S.L.A. If one looked back and debates whether the £250,000 was always a grant that is another matter. But there was this debate and I think that is possibly why this was first focused on once the funding went above £250,000.

Deputy G.P. Southern:

I think one could argue that the debate says it is a rebate and not a grant is a bit of sophistry, actually. It is money paid out from the taxpayers' coffers.

Mr. M. De Forest-Brown:

I am not seeking to suggest which was right or wrong. I am just pointing out that there was a debate at that time and I think that that might have been why it was not until early in 2003 and 2004 that the debate actually came on to the table that it was time to have an S.L.A.

Deputy G.P. Southern:

For which there was very little ... no level of accountability in terms of Code of Directions number 26.

Mr. G. Grime:

Well, I am looking at the first set of accounts that Jersey Finance prepared to 31st December 2001 that was signed on 29th May 2002 and audited by an independent firm. A complete transparency there. Those accounts every year have been produced. They have been audited and they have been made available to the relevant States' Departments.

Mr. M. De Forest-Brown:

Of course there was the board member, representative of the States on the board who would have seen the accounts presented to the board from time to time.

Deputy G.P. Southern:

I am conscious of time and we have just gone over ... we started 5 minutes late for which I apologise. Is there anything else that we have not touched on? I realise we have concentrated very much on the financial aspects which was our intention this time. We obviously will be perfectly willing to talk to you later on next year when we explore the future and what is happening more contemporaneously, if that is okay. Thank you very much for your time today. You have taken us on another stage. Thank you.

Mr. M. De Forest-Brown:

The only thing I would just like ... I only gave my role as accounting officer. For the full disclosure I ought to be clear that I am Director of International Finance for the States. I am also a board member on J.F.L. as the representative of the States, so that should go on the record.