

# The Proceeds of Crime (Jersey) Law 1999

<b>Jurisdiction:</b>	Jersey
<b>Judge:</b>	Deputy Bailiff
<b>Judgment Date:</b>	12 March 2002
<b>Neutral Citation:</b>	[2002] JRC 60A
<b>Reported In:</b>	[2002] JRC 60A
<b>Court:</b>	Royal Court
<b>Date:</b>	12 March 2002

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## Text

[2002] JRC 60A

ROYAL COURT

(Samedi Division)

Before:

M.C. St.J. Birt, **Esq**, Deputy Bailiff, **and** Jurats Le Ruez **and** Clapham.

In the Matter of the Proceeds of Crime (Jersey) Law 1999  
And in the Matter of the Desastre of Chimel Trustee Company, Ltd., and Others

**Advocate** P.B. Sugden **as Representor**.

**No Authorities**

**Representation of Paul Birkby Sugden of Messrs. Olsens, seeking orders: (1)**

**convening the Chief Officer of the States of Jersey Police; and (2) directing the said Chief Officer to give a consent, under Article 32(3)(b)(i) of the Proceeds of Crime (Jersey) Law 1999; or in the alternative to give reasons why he should not be required to do so.**

Deputy Bailiff

## THE

- 1 In this matter Advocate Paul Birkby Sugden, acting on behalf of the firm of advocates, Messrs. Olsens, seeks leave to present a representation convening the Chief Officer of Police so that the Chief Officer might be directed to consent, under Article 32(3)(b)(i) of the Proceeds of Crime (Jersey) Law 1999 to Olsens acting as lawyers for certain clients. Those clients were clients of the Chimel group of companies which are now *en désastre* and the purpose of Olsens representing the clients would be to present an application to the Court for the transfer of the administration of the clients' companies and trusts from the Viscount to new service providers.
- 2 Where a representation such as this is presented seeking in effect a judicial review of a decision of a public official, such as the Chief Officer of Police, the Court has a discretion as to whether to allow the representation to be brought. In doing so it will consider whether there is a serious issue to be tried.
- 3 Miss Langlois submits there is a risk that, by acting in the way we have described, Olsens could commit an offence under Article 32 by entering into or being concerned in an arrangement whereby the retention or control by or on behalf of another of the proceeds of criminal conduct is facilitated whether by concealment, removal from the jurisdiction, transfer to nominees, or otherwise.
- 4 This would appear, on the face of it, to be a novel proposition. The Court has already considered a number of applications for the transfer of the administration of the affairs of clients of Chimel from the Viscount to new service providers and no other firm of advocates appears to have considered this to be a problem.
- 5 What is it that Olsens will be doing? They will be advising the client and in due course representing the client in making application to the Viscount and then to the Court for a transfer of the administration of the client's company or trust, as the case may be. If a transfer of assets takes place the transfer will be made by the Viscount to the new service provider and it will be done under the authority of an order of the Court. In our judgment, to say that in those circumstances the advocate who represented the client in those proceedings before the Court has committed an offence under Article 32 is fanciful.

- 6 In any event we have been shown an e-mail from the Joint Financial Crimes Unit in which the following is said:

*“Consent to act as legal adviser.* This is a surprising request — the first of its kind to my knowledge. If it is the case that you need my specific consent to continue to act as a legal adviser to the status parties then you have it.”

That is from Inspector Minty, the head of the Joint Financial Crimes Unit.

- 7 Miss Langlois says that, the same day, a standard letter was written which was inconsistent with the e-mail in that it did not give consent *“to operate the account normally”*. She says that that casts doubt on whether the police have consented to Olsens acting as a legal adviser. We have to say that the second letter is so ambiguous that we do not see that it can possibly be said to qualify the unambiguous comment in the e-mail.
- 8 All in all we think there is no serious issue to be tried in this case whether it be that Olsens are at risk of committing a criminal offence by simply acting as advocate in presenting an application to the Court or whether the consent has been granted. We therefore refuse leave to proceed with this representation.