STATES OF JERSEY

SUNSTONE HOLDINGS LTD. AND DE LEC LTD. – *EX GRATIA* PAYMENTS TO INVESTORS

Lodged au Greffe on 26th July 2013
by Senator A. Breckon

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

(a) to request the Minister for Treasury and Resources to make *ex gratia* payments from central reserves to investors who suffered financial losses as a result of investments they had made in Sunstone Holdings Ltd. and/or De Lec Ltd. with such payments being limited to a maximum of £48,000 per investor (with this maximum being calculated as 100% compensation for the first £30,000 lost and 90% of the next £20,000);

(b) to request the Minister for Treasury and Resources to take the necessary steps to bring forward for approval legislation to require the Jersey Financial Services Commission to make a one-off payment to the States to meet the total cost of the *ex gratia* compensation payments made under paragraph (a);

(c) to request the Chief Minister to bring forward for approval no later than December 2014 proposals under Article 27 of the Financial Services (Jersey) Law 1998 for the establishment of an Investor Compensation Scheme in Jersey.

SENATOR A. BRECKON

REPORT

A number of people contacted me about 7 years ago about investments that they had with Alternate Insurance Services Limited. This eventually resulted in the company being taken to the Royal Court, where it was proven that 28 local immature investors had been given recklessly misleading advice and had lost substantial sums of money from their savings or retirement funds – money which they could not afford to lose.

In giving his judgement in the Royal Court on 26th January 2007, Commissioner Richard Southwell had this to say –

Paragraph 402 –

> "**If it be the case that Alternate is not insured, so that the sums ordered by the Court to be paid cannot be recovered from Alternate's insurers, then the question might be asked why the States have not yet exercised the power given to them by Article 27 of the 1998 Law to establish by Regulations a suitable Compensation Scheme or Schemes**: see paragraph 6 above. **In the absence of any effective system for ensuring that persons under the 1998 Law are firmly insured with adequate cover, that question becomes the more pertinent. The investors would be entitled to ask that question, because in the absence of insurance of Alternate, they would be left without redress, and the States might consider that the circumstances of the investors including Mrs. XXXXXX and Mr. & Mrs. YYYYYYYYYY and others, require redress, a point which we will return below.**"
>
> **(my emphasis above)**

Note: I have removed names of X and Y.

Paragraph 403 –

> "**For the future, however, the Court recommends that the issue, whether a compensation scheme or schemes should be established, should now be addressed. We emphasise that for investors such as those to be left without compensation would not redound to the good reputation of Jersey and its investment community.**"
>
> **(my emphasis above)**

Paragraph 6 as mentioned above says –

> "Under Article 27 dealing with Compensation Schemes
>
> [which] says
>
> > 'The States may by Regulations establish in relation to any investment business, or to classes of such business, schemes for compensation in cases where registered persons or formerly registered persons are unable, or likely to be unable, to satisfy claims in respect of any description of civil liability incurred by them in connection with such

business, and the provisions of such schemes may be different for different classes of person or for different classes of such business.'

The Court has been informed that, despite the existence of this power since 1998, the States have established no such compensation schemes."

So in other words, the 1998 Law is worded in such a way as to allow for the inclusion of Compensation Schemes; however, this has not been addressed following the Alternative case in 2007. I believe it now should be.

Following on from this criticism in the Royal Court, positive action followed to pay some compensation to investors. For ease of reference, I have reproduced the following extract from the Minutes of the States, which is a Statement made on 13th May 2009, and the questions asked of the Minister following that Statement –

"**7. Statement by Senator A.J.H. Maclean, The Minister for Economic Development regarding the payment of compensation to a group of local residents who were victims of misleading advice from Alternate Insurance Services Limited:**

I, as you know, have been trying to make this statement for some time. **[Laughter]** At the last sitting, the Deputy of St. John raised some questions concerning a recent decision to compensate a group of local residents, who were victims of mis-selling. While the decision has been made, I appreciate the concern that it may have caused some Members. This statement is intended to offer clarification as to the circumstances behind the decision. In arriving at my decision, I consulted the Council of Ministers to seek their support before requesting a source of funding from the Treasury. The Minister for Treasury and Resources agreed to the request in accordance with Article 15 of the Public Finances (Jersey) Law 2005 to allocate funds from the 2008 underspend. The total carry forward request was for £597,000, although compensation could in fact be less and will be made available to allow one-off payments to be made to the 28 local investors. These individuals suffered losses as a result of recklessly misleading advice given by a local company called Alternate Insurance Services Limited. Payments to the investors will be made on the same basis as the U.K. Financial Services Compensation Scheme, with each investor limited to a maximum payout of £48,000. Following a full external audit, the payments will be distributed to the investors by my department, as Economic Development has the responsibility for financial services. My decision follows a Royal Court judgment in the case of *The Jersey Financial Services Commission (The Commission)* v *Alternate Insurance Services Limited*. In light of the unique circumstances of the case, which are unlikely to be repeated, there were clear and compelling arguments to support compensating these individuals. I gave particular regard to the following exceptional facts when arriving at my decision: without exception, those affected could fairly be characterised under the commonly used phrase "widows and orphans." The affected investors in this case were all local residents who were not sophisticated investors. The Royal Court found that they were given recklessly misleading advice, which led them to invest in high-risk products, believing they were in fact low risk, resulting in significant losses, sometimes in excess of their initial investment. The court's view was that all such investors should be compensated. In 2001, when this case occurred, the sector was not fully regulated. Normal professional indemnity cover became

invalid. Due to the insolvency of Alternate, only a small proportion of the losses could be recovered. All other possible avenues for recovery through the courts were exhausted by the Jersey Financial Services Commission. Given the uniqueness of this case, the Council of Ministers supported my view that there were sufficient grounds to make one-off payments to the affected investors. I hope that these payments will go some way in helping to relieve the consequences, including genuine hardship, that many of these people have suffered, as set out in the judgment of the Royal Court. As a result of this case, I have asked my department to commence a review of investor protection. In the past it was decided, in common with other jurisdictions, not to have a standing scheme, due to the costs of running it. It was always intended to deal with exceptional cases as and when they arose on a case by case basis, as in this instance. We will now look again at the cost benefit analysis of establishing a standing investor compensation scheme and will report our findings and proposals to Members.

7.1 The Deputy of St. Mary:

I can see the list of circumstances that the Minister has put before us, but I am curious to know, what is the responsibility in this which led the Minister and the Council of Ministers to believe that compensation was the correct response? When you compensate, there is a responsibility that you are compensating for. I want to know what the responsibility was. I accept these very circumstances, that is not the issue.

Senator A.J.H. Maclean:

The responsibility quite simply was that these investors had been let down by the fact that the system did not suitably protect them. They were given advice by members of this particular company which was recklessly misleading. Because the investors were let down in this way, we felt – and the court indeed felt – that it was bordering on dishonesty, and on that basis, we felt that it was reasonable to make the compensation payments.

7.2 Connétable D.J. Murphy of Grouville:

I know a little about these instruments that we use, the T.E.P.s (Traded Endowment Policies) and because I have some experience of them, I find it very, very difficult to understand how they manage to do this without committing a fraudulent act. In that case, why were individuals not prosecuted instead of the companies?

Senator A.J.H. Maclean:

The Constable is absolutely right, and I know that it was a very close call as to whether indeed the individuals were going to be prosecuted, and it became a fraudulent act. However, indeed, the products of which the Constable is referring to – Traded Endowment Policies – in themselves are medium-risk investment products. What was the problem here or the additional issue here was the fact that this was packaged products which involved a degree of leverage; in other words, the investors were asked to borrow money to leverage the investment into a package and the risk was not explained to them, but the Constable, in principle, is absolutely right. The individuals came very close to being prosecuted.

7.3 Deputy G.P. Southern:

The Minister has talked in very neutral terms about defects in the system; a system devised by whom? Was it J.F.S.C. (Jersey Financial Services Commission); was it E.D. (Economic Development); who was responsible for these defects that occurred at the time? E.D. or J.F.S.C.?

Senator A.J.H. Maclean:

As the Deputy will be well aware, it is in fact the J.F.S.C. who are responsible for regulating financial services. I believe that they carried out their statutory obligations in this regard. I have to say that there are 2 factors: 1, at that particular point – and bearing in mind we are talking about the period from 2000 to the end of 2002, at which point it was a transitional period – that particular sector of I.F.A.s (Independent Financial Advisers) was not fully regulated. But if he is looking for accountability for regulation, that is in fact the J.F.S.C., but it was not fully regulated at that stage.

Deputy G.P. Southern:

If I may, a supplementary: so then the blame clearly lies with the equivalent of the Economic Development Industries Committee of the day, that regulation had not been extended to this apparently dangerous area?

Senator A.J.H. Maclean:

I think regulation is being improved all the time. There has been a tremendous increase in regulatory control in all sorts of areas. This, as I was mentioning a moment ago, we are going back to 2000/2002, the level of regulation has moved on a long way since then. I would certainly like to think that the chances of a similar case to this occurring is highly unlikely.

The Greffier of the States (in the Chair):

Briefly, Deputy. There are others waiting to speak.

Deputy G.P. Southern:

In answer to my question, who was responsible, nobody knows. There is no responsibility, no one responsible. Who was responsible?

Senator A.J.H. Maclean:

If the Deputy is asking who is responsible for the loss to the investors, then it would be the company themselves, because clearly they were the one that imparted the advice. If he is asking about regulatory oversight, the J.F.S.C. had regulatory oversight, but the level of regulatory oversight at that particular point is not at the stage that it is now. So I am satisfied that the J.F.S.C. did all that was reasonable and could be reasonably expected of them at that time.

7.4 Senator A. Breckon:

Could the Minister confirm that the court judgment was critical of the States of Jersey, among others, of not having a suitable compensation scheme and also could he advise when one will be in place?

Senator A.J.H. Maclean:

Yes, I can confirm that in the judgment – and in fact, if Members would like to read the judgment, just as an aside, there was a lot of very interesting information, it is over 100 pages long. I have it here and it would give some very useful background – it does refer to the fact that we do not have an investor compensation scheme. That is one of the reasons that I have asked for it to be reviewed again, for the reasons that I stated in my statement, why we have not had one to date. Fortunately, these incidents are relatively rare, certainly in Jersey – other jurisdictions are not quite as lucky, necessarily – once the review is complete, then I will make a statement to the House as to the position, and indeed timing of any scheme should indeed it be decided that a scheme will come forward.

7.5 The Deputy of St. John:

Given the public airings we have had of both Woolworths and Pound World, *et cetera*, will the Minister bring this to the Chamber to be debated by the Chamber, if necessary in camera? If he is not prepared to do so, a private Member is very likely to do it.

Senator A.J.H. Maclean:

Could I ask the Deputy to clarify what he is asking me to bring to the Assembly to debate in camera?

The Deputy of St. John:

The facts of the case have been explained to you. The Members, I am sure they were all given the facts with the Woolworths and the Pound World debate. They can give us the facts in their entirety, laid out by your department or the Treasury Department, Council of Ministers, so that we can decide for ourselves if that £600,000 has been correctly spent, or going to be spent.

Senator A.J.H. Maclean:

As I mentioned a moment ago, the judgment of the Royal Court, extending to over 100 pages, is here. All the facts are contained within this document. I am more than happy to let the Deputy have a copy of the judgment with all the facts in it, and indeed, any other Member in the Assembly if they would so wish.

7.6 Deputy D.J. De Sousa:

Most of my question has been asked already. Can the Minister really justify making this decision himself, knowing what we were put through as a House when debating the Woolworths and the Pound World at the time when it came? How can he now justify making this decision without coming to the House?

Senator A.J.H. Maclean:

Well, first of all, there is no direct relationship between the 2 cases, but I have to say that the decision that this House took with regard to Woolworths was something that I had in the back of my mind when considering this particular fact. It is clear the level of compassion that this House has for cases like Woolworths, and I have no doubt that having read the details of this particular Royal Court judgment, that Members would support my view. It is absolutely clear cut, in my view, and indeed, in the view of the court, and if I can indulge Members for one second, I will just quote what the judge said. He said: "To this court, it seems inconceivable that investors should be left uncompensated for their serious losses. This recommendation is made because it is not acceptable that unsophisticated small investors in Jersey can be so badly advised in relation to their small resources." These are not wealthy people, these are not sophisticated investors. The advice given was dishonest, it was misleading, and in my view, this was the right decision, and I hope Members accept it.

7.7 The Deputy of St. Martin:

Yes, it is very close to what the question has been going around the House. It is just a direct question of the Minister, because he knows how he upset me when he made his remarks about Pound World. With hindsight, would the Minister not have thought it would have been better to have brought this to the House so the Members could have a part in the decision, and maybe if a future occasion came, that he would bring it to the House and not make it an in-house decision? So would he bring a proposition in the future to the House if he had a similar occasion?

Senator A.J.H. Maclean:

I take the Deputy's point. I think you have to assess every individual case on its merits. I think the judgment that I took and I took to the Council of Ministers, which they supported, in this instance I believe was correct. However, I do say or am prepared to say to the Deputy in future, depending on the circumstances – and I certainly hope we do not have another case similar to this – but should we do so, I will assess it on merits, and it may well be one that would come for consideration to this House, depending on the circumstances."

Note: I have attached the relevant Ministerial Decision as an **Appendix** at the end of this Report for Members' information.

Also, I believe that is worth repeating what the Minister for Economic Development said in his statement –

> *"**Due to the insolvency of Alternate, only a small proportion of the losses could be recovered. All other possible avenues for recovery through the courts were exhausted by the Jersey Financial Services Commission. Given the uniqueness of this case, the Council of Ministers supported my view that there were sufficient grounds to make one-off payments to the affected investors. I hope that these payments will go some way in helping to relieve the consequences, including genuine hardship, that many of these people have suffered, as set out in the judgment of the Royal Court."***

I believe that investors in Sunstone & De Lec should be treated similarly, because between the Minister for Economic Development and the Jersey Financial Services Commission (JFSC) both failing to act by introducing a Financial Services Compensation Scheme, meaning failure to provide a safety-net for cheated investors, they have failed to take any notice of, or more importantly act upon the words of, the Royal Court Commissioner from 2007, over 6½ years ago.

Sunstone Holdings & De Lec Ltd.

In May 2010 I was approached by someone who was a client of Goldridge Stone who had made an investment with Sunstone Holdings & De Lec and was having problems getting their investment back. Because the matter was under investigation, I was unable to do much more than seek information as to how this was progressing, however it was still years away from conclusion.

I was also aware that one investor who was attempting to get money back had an application against Sunstone in the Royal Court on 8th August 2008, and some others were considering acting collectively to do likewise.

More recently I have had conversations with some, but not all, who have lost money and a common thread is apparent –

- Most were clients of Goldridge Stone and trusted the advisors.
- Their financial details were generally known to the financial advisors.
- They were told they were investing in actual "bricks & mortar".
- They had lump sums from inheritance, other investments or divorce.

I believe that we, as a Government, have a duty of care to those who have lost significant sums of money with the above 2 companies. When we claim that Jersey is a first-class financial services centre that is well regulated, I believe that we need to be able to demonstrate this in a practicable manner and provide basic protection for the ordinary man and woman in the street, without the need to incur legal costs. This is also a good advert for Jersey to be able to say that we do have a system in place when all else fails, after things have gone terribly wrong.

I believe those who lost money with Sunstone & De Lec should be compensated in a similar way to the investors who were cheated by the shenanigans of Alternate Insurers, that is to say similar to the U.K. Financial Services Compensation Scheme, which pays –

- 100% of the first £30,000,
- 90% of the next £20,000,

making the maximum payment to any investor £48,000.

At this level, a number of those who invested will still have to live with significant losses.

I believe that the Minister for Treasury and Resources should recoup this money paid out in *ex gratia* payments from the JFSC, who have an accumulated reserve shown in the 2012 Annual Report of £7,247,000. Perhaps the JFSC may be more pro-active in bringing forward a Compensation Scheme if the liability falls to them as a last resort!

Three of the 4 people who recklessly misled the investors were working as registered financial advisers, principally through Goldridge Stone, and both the Company and the individuals were registered with the JFSC, while most, if not all, of the reckless misleading was done between 2004 and 2008. They had "inside knowledge" of the victims' financial affairs and made nearly all of their contacts with the victims through their prior knowledge of their earlier financial matters, such as pensions, insurance policies, single lump-sum investments, etc.

I have set out below extracts from the Royal Court Superior Number Sentencing for fraud. This gives some background to the case and describes the situation probably better than I can –

"[2012] JRC177

Royal Court

(Samedi)

5 October 2012

Before:

Sir Christopher Pitchers, Commissioner, and Jurats Morgan, Fisher, Kerley, Marett-Crosby and Nicolle.

The Attorney General

-v-

John Tasker Lewis
Ian Michael Christmas
Russell Philip Foot
James Cameron

Details of Offence:

In 2004 and 2005 the four defendants set out to speculate on US residential property in the states of Florida and Colorado. Lewis and Christmas did so together through a company called De Lec Limited. Lewis, Foot and Cameron did so together through a company called Sunstone Holdings Ltd.

The initial idea was to acquire properties off-plan and in a rising property market, (at that time appreciating by between 10 and 15% per annum), then either sell the property or assign the purchase rights at considerable profit at the end of the build.

The defendants had little money of their own, but leveraged the properties with very substantial sums borrowed from US banks and raised from Jersey investors.

Over the Indictment period, (2004 to 2008), the four defendants between them either bought or reserved a grand total of 82 US properties, of which they completed on the purchase of 38. In the course of their activities they between them borrowed a total of $16.5 million in mortgages from US banks and raised some £5.3 million from a total of 57 Jersey people, amongst whom were the 19 victims in the case.

Neither De Lec nor Sunstone had any income stream. The more US property that was bought, the more money the defendants needed to find simply to pay the costs attendant upon owning the properties, such as mortgage interest payments, utility bills, association fees, as well as to make so-called profit or interest payments to existing investors to whom they had promised a return. Within 2 years of starting to acquire properties, the De Lec portfolio run by Lewis and Christmas, and that of Sunstone run by Lewis, Foot and Cameron, were each costing some half a million US Dollars a year to hold, whilst the properties themselves were earning only a fraction of that in rental income to defray the cost.

The defendants needed to obtain money from somewhere to meet the shortfall and to service these debts if the entire business of both De Lec and Sunstone was not to become insolvent. They obtained it in large measure from Jersey investors, and did so by misleading them about what their money would be spent on.

Christmas was the Assistant Magistrate at the time he offended. Lewis, Foot and Cameron were all independent financial advisers trading under the name Goldridge Stone, which was regulated by the Jersey Financial Services Commission. Almost all the victims were existing Goldridge Stone clients who trusted Lewis, Foot and Cameron as their financial advisers.

The majority of the victims were told by various of the defendants, both verbally and in written “Joint Venture Agreements” that the funds they were investing would be used directly to pay deposits to acquire specific Florida or Colorado properties from the developer, and they invested on that basis. In fact their funds were used by the defendants to pay whatever bills, liabilities or commitments required immediate settlement. Many of the properties which the investors were told they were investing in were never ultimately acquired.

The schemes thus required fresh money from new or existing investors to keep from collapse as well as to honour the promises that had been made to earlier investors. The defendants did not raise sufficient funds by selling properties or by re-mortgaging to meet such liabilities. In 2006 the US market stalled. In 2007 it stagnated and then crashed in the sub-prime crisis. Having misled investors recklessly throughout 2005 and 2006, by 2007 Lewis, Cameron and Foot began consciously misleading investors by lying to them that Sunstone was successful and by concealing the truth that it was a failed venture on the brink of imminent collapse.

In early 2008 the Jersey Financial Services Commission launched an investigation into Lewis, Foot and Cameron. Shortly thereafter the police became involved, and the defendants' activities were brought to a halt.

As a consequence, from a total of £5.3 million invested by Jersey people overall, some £4.2 million was lost. Over the guilty counts on the Indictment, the victims paid a grand total of £1.2 million into the schemes, of which more than £1.1 million was lost.

Lewis, Foot and Cameron benefitted personally from their offences. From investor funds across the guilty counts Lewis paid himself personally some £83,500. Foot paid himself £117,250 and Cameron paid himself £123,400, representing a total of 27% of all the money invested. None of the victims had been told that their money would be so used.

Across the investments as a whole, all the defendants benefitted personally, including Christmas – though this was not a case of "high-living" at investors' expense.

Christmas committed jointly with Lewis a single offence of recklessly misleading an elderly widow into paying £100,000 to De Lec, (Count 2), he having signed the written agreement which confirmed what the defendant Lewis had told her, namely that her money would pay the deposits to acquire two US properties. In fact it was spent on other things entirely.

Lewis, Foot and Cameron committed a series of offences from 2004 to 2006 of recklessly misleading investors by telling them verbally and in the written agreements that their money would pay the deposits to acquire specific US properties. In fact the money was spent on other things, including paying mortgages on Jersey properties and on bank-rolling Sunstone's existing debts and obligations.

In addition Lewis was convicted of knowingly misleading two investors into parting with a total of £185,000, (Counts 4, 26 and 27), Foot was convicted of knowingly misleading two investors into parting with a total of £220,000, (Counts 24, 26 and 27), and Cameron was convicted of knowingly misleading one investor into parting with a total of £160,000, (Counts 26 and 27).

Sentence and Observations of Court:

The defendants' businesses had no income to meet their growing expenses except for new investors. Each new investor's money had to be used towards the overall expenses of the business and to fulfil the promises already made to earlier investors. Investors had been misled by the whole transaction in which they had participated. They believed they were getting an interest in bricks and mortar when in reality they were not, and would only receive one if everything went well for a significant period of time. The business model was hopelessly flawed and was never corrected, even when its shortcomings were apparent to the defendants.

The inducement statements made by the defendants to the investors, both verbal and written, were recklessly misleading from the beginning and grew more reckless as the financial position of De Lec and Sunstone worsened until, in the case of Lewis, Foot and Cameron, the financial state of Sunstone was such that it was out and out dishonesty to take money from anyone.

Christmas's involvement was greater than his counsel contended for. That he held judicial office at the time he offended was an aggravating feature, and his involvement in De Lec had been inappropriate for a serving judge. He had fallen below the particularly high standards required of those holding important public office. He had signed Mrs. Xxxxxxx's agreement as part of the inducement process, knowing it did not present the true picture. A suspended prison sentence would be quite wrong in principle.

Lewis, Foot and Cameron offended recklessly over a protracted period, and dishonestly towards the end – and to a grave degree – with their final victim. The Court had determined the length of sentence in each of their cases by looking at the totality of their conduct.

It was a matter of great seriousness that all the victims were ordinary people whose lives had been altered for the worse, and forever by the defendants' behaviour.

The Court had regard in mitigation to previous good character, to the fact that this was not a case of high living at investors' expense, and to the suffering that a prison sentence would inflict "not only on the guilty, who deserve it, but also on their families who do not".

JUDGMENT

The Commissioner:

6. As the Jurats found, the statements to investors, both orally and in writing, via the JVA were reckless from the beginning. The degree of recklessness increased as the financial position of De Lec and then Sunstone, got worse. However there came a point where the businesses were so mired in debt and the position with the US properties so hopeless that it was out and out dishonesty to take money from anyone and that was reflected by the Jurats at trial by no longer convicting of offences of reckless, misleading statements but convicting of knowingly making misleading statements. From late 2006 there is a series of emails, which have been placed before us by the Crown, as they were before the trial court, passing between the three defendants Lewis, Cameron and Foot acknowledging in colourful terms the hopeless financial situation they were in but still they took investor's money. By the end no honest representation could be made to an investor because had it been, that potential investor would have run a mile, so the defendants had no option if they wanted to continue to bring in money but to lie and that was what they did.

11. Some general points, we regard "knowingly" committing these offences as particularly serious. When it came to the final counts, your 'fleecing' of Xxxxxxx Xxxxxx was as dishonest as it would have been if you had held up a bank to get the money. The Jurats were satisfied in the trial that all three of you were present at the meeting that Xxxxxxx Xxxxxx had in some of the offices that you were all then occupying, and that the other two of you were aware of what was going on when Cameron was speaking to him.

12. It is important to stress that one of the reasons why these offences are so serious is because it is vital that those who invest with professionals, whether they are regulated or unregulated in their business, must have confidence that they are being given accurate and honest advice and not being misled. But at the heart of this case is something even more important. These victims, these investors who lost their money,

were ordinary people whose lives have been altered for the worse forever by your reckless and your later dishonest behaviour and that is a matter of great seriousness. These were not people who could afford to lose the money that they lost.

13. Before turning to the sentences upon which the Jurats have decided, we adjourn the application by the Crown for confiscation and compensation to a date to be fixed in accordance, as is necessary with confiscation, with the appropriate statute."

I hope that the above shows clearly that the investors were ordinary Jersey residents who were recklessly misled and cheated out of the money by men who they trusted to give them good independent financial advice.

In the circumstances described in this Report and widely publicised elsewhere, I believe those who lost money with Sunstone & De Lec should be compensated in a similar way to the investors who were cheated by the shenanigans of Alternate Insurers, that is to say similar to the U.K. Financial Services Compensation Scheme, up to a maximum of £48,000.

Financial and manpower implications

The Court of Appeal of 18th April 2013 at paragraph 20 states the following –

> "The counts in the indictment focused on 30 investments by 27 investors. But these were specimen counts. The total number of Jersey investors consisted of 57 people who paid a total of £5,337,000 to the Appellants. Of that sum £1,905,000 was paid to the Appellants Christmas and Lewis and their company De Lec. The balance, £3,432,000 went to the Appellants Lewis, Foot and Cameron and their company Sunstone. Of the total sum invested, £1,137,000 has been repaid. The remainder, £4,200,000 has not been recovered....."

So a sum of £2,736,000 (57 x £48,000) will be a maximum amount required, because some investors did not lose £48,000, and although some investors lost more, any *ex gratia* payment would be "capped" at £48,000 in line with the UK Financial Services Compensation Scheme. I cannot be any more specific than that because all the investors who lost money and the amounts involved are not known to me.

As stated in the proposition, I believe that this sum can initially be paid from central reserves (contingency) and then recovered by the Minister by requiring a contribution to the States from the Jersey Financial Services Commission. This would almost certainly need to be done by primary legislation as happened for the transfers from the Health Insurance Fund.

Decision Summary

States of Jersey

ECONOMIC DEVELOPMENT

Ministerial Decision

Decision Reference: MD-E-2009-0103			
Decision Summary Title *(File Name)*:	Payments to Alternate Investors	**Date of Decision Summary:**	June 2009
Decision Summary Author:	Finance Industry Development Executive	**Decision Summary: Public or Exempt?**	Public
Type of Report: Oral or Written?	Written	**Person Giving Oral Report:**	n/a
Written Report Title *(File Name)*:	Payments to Alternate Investors	**Date of Written Report:**	June 2009
Written Report Author:	Finance Industry Development Executive	**Written Report: Public or Exempt?**	Exempt under 3.2.1(a)(i) of the Code of Practice

Subject:

Payments to Alternate Investors.

Decision(s):

In accordance with Minute No. B2 dated 5th March 2009 of the Council of Ministers, the Minister for Economic Development ("**the Minister**") authorized the distribution of payments totalling up to £540,318.83 from the funds allocated in MD-TR-2009-0061 to Alternate investors in accordance with the accompanying Schedule of Payments. The Minister agreed with the Treasurer that the incidental costs of the audit can also be met from these allocated funds. The Minister delegated authority to the Chief Officer, Economic Development to sign the required Assignment and Agreement for each payment.

Reason(s) for Decision:

This decision gives effect to Minute No. B2 dated 5th March 2009 of the Council of Ministers.

Resource Implications:

There are no significant manpower implications for the States. Financial implications are discussed in the attached Written Report and Schedule of Payments.

Decision Summary

Action required: Payments totalling up to £540,318.83 to be distributed to Alternate investors in accordance with the attached Schedule of Payments.	
Signature:	**Position:** Minister for Economic Development
Date Signed:	**Date of Decision** *(If different from Date Signed)*: