



Public Statement

Mr Vincent Charles Roberts (Mr Roberts)

Date of birth: 24 June 1965

Former Principal Person and Investment Employee¹

Financial Services (Jersey) Law 1998, as amended (FS(J)L)

1 Action

- 1.1 The Jersey Financial Services Commission (**JFSC**) issues this public statement pursuant to Article 25(a) of the FS(J)L with respect to directions issued to Mr Roberts under Article 23 of the FS(J)L.
- 1.2 The JFSC's actions support its objectives of reducing the risk to the public of financial loss and protecting and enhancing the reputation and integrity of Jersey in commercial and financial matters.

2 Background

- 2.1 Mr Roberts was an Executive Director and investment employee (financial adviser) of a registered person (**IFA 1**) from 2005 until his resignation on 16 June 2017 and a shareholder controller of IFA 1, from 2007 to 30 October 2017. As a consequence of holding the Executive Director and Shareholder Controller roles, Mr Roberts was a Principal Person as defined in the FS(J)L. IFA 1 is authorised by the JFSC for the provision of investment business as defined in the FS(J)L.
- 2.2 Following Mr Roberts' resignation from IFA 1, he joined another registered person (**IFA 2**) as an investment adviser, a role he performed between June 2017 and 10 November 2017. IFA 2 is authorised by the JFSC for the provision of investment business and trust company business as defined in the FS(J)L.
- 2.3 In July 2017, IFA 1 received a complaint from a client in relation to Mr Roberts' conduct as an investment adviser. Given the nature of the complaint IFA 1 notified the JFSC. The complaint raised concerns with the JFSC over Mr Roberts' fitness and propriety and his compliance with the FS(J)L and Code of Practice for Investment Business (**IB Code**).
- 2.4 In August 2017, the JFSC came into receipt of additional information giving further cause for concern over Mr Roberts' fitness and propriety.
- 2.5 Consequently, the JFSC commenced an investigation into Mr Roberts' fitness and propriety. The investigation focused on Mr Roberts' integrity, conduct and financial standing, which concentrated on the period 2010 to October 2017 (**the Investigation**).

¹ As defined in the Investment Business Fees Notice

3 Key findings

3.1 In 2012 Mr Roberts' financial standing, due to, in the main, extensive gambling activity, began to deteriorate to such an extent, unbeknown to his employer IFA 1, Mr Roberts approached clients and prospective clients for unsecured personal loans. This was during the course of Mr Roberts' professional role as an investment adviser of IFA 1.

3.2 Client 1

3.2.1 Mr Roberts advised a 'retail client'² of IFA 1, Client 1, who had limited investment knowledge, to sell £15,000 of their 'mainstream' investment portfolio. The investment advice was given on the stated basis of 'crystallising investment profits'. Client 1 accepted Mr Roberts' investment advice which released monies that Client 1 lent directly to Mr Roberts, on an unsecured basis for a term of three years. In this respect Mr Roberts agreed to pay Client 1 interest at a rate of 8% per annum.

3.2.2 Mr Roberts used the loan monies, received from Client 1, for personal expenditure and to settle personal liabilities.

3.2.3 When the loan 'matured' Mr Roberts' financial position was such that he did not have the funds to re-pay Client 1 their capital (£15,000) and the accrued interest (£3,600). Mr Roberts advised Client 1 to enter into a new loan arrangement, whereby the capital and interest were 'rolled-over' into a new, unsecured loan arrangement. On this occasion the term of the loan was set at five years and Mr Roberts agreed to pay Client 1 interest of 8% per annum. This loan is yet to mature.

3.2.4 Mr Roberts subsequently borrowed two further sums from Client 1. These sums have both been repaid in full by Mr Roberts to Client 1.

3.2.5 When entering into the loan arrangements, Client 1 was not sighted as to Mr Roberts' financial position and was not aware of the purpose of the loan arrangements.

3.2.6 The JFSC regards Mr Roberts as having prioritised his own financial needs above those of Client 1 and, in doing so, displayed a lack of regard for the interests of Client 1. As a consequence, the JFSC has concluded Mr Roberts acted with a lack of integrity. Client 1 has not made a complaint concerning these matters.

3.3 Client 2

3.3.1 Until July 2016 Mr Roberts was IFA 1's designated financial adviser in respect of Client 2, a non-profit organisation. Mr Roberts also undertook voluntary work for Client 2. This voluntary work resulted in Mr Roberts being granted 'online' access to Client 2's bank account.

3.3.2 Over a period of 20 months Mr Roberts, unbeknown to IFA 1 and without Client 2's consent, made twelve online transfers from Client 2's bank account to his personal bank account, which totalled £9,500. Mr Roberts subsequently repaid each of these sums in full to Client 2.

3.3.3 The online transfers assisted Mr Roberts with his short-term liquidity requirements.

3.3.4 The JFSC regards Mr Roberts as having allowed his poor financial standing to impair his judgement. Furthermore, the JFSC has concluded Mr Roberts acted with a lack of integrity. Client 2 has not made a complaint concerning these matters.

² Defined in the IB Code as 'a client who is not a professional client'.

3.4 Client 3

- 3.4.1 Unbeknown to IFA 1, Mr Roberts provided advice to a new client, Client 3, in relation to the consolidation of their pension arrangements into a new pension structure and, further, investment advice in relation to the investments to be held within the planned pension structure (**the pension investments**). Client 3 accepted Mr Roberts' investment advice and provided their consent to proceed with the establishment of the new pension structure and the associated pension investments.
- 3.4.2 Approximately five months after Client 3 provided the above-mentioned consent, Client 3 requested a valuation of the pension investments. Unbeknown to Client 3 and IFA 1, Mr Roberts created and provided Client 3 with a written 'valuation', which he led Client 3 to believe was the value of the pension investments. However, the valuation could not have been correct as the new pension structure had not been established and, as a consequence, the investments had not been made.
- 3.4.3 Over the subsequent 13 month period, Mr Roberts continued to mislead Client 3 into believing the new pension structure had either been established, or was in the process of being established, including the implementation of the pension investments. However, in reality Mr Roberts had failed to submit Client 3's application and associated documentation for processing by IFA 1.
- 3.4.4 Immediately prior to leaving the employment of IFA 1, and 18 months after Client 3 had initially provided their consent to proceed with Mr Roberts' investment advice, Client 3 once again asked Mr Roberts for a valuation of the pension investments. On this occasion Mr Roberts provided Client 3 with a verbal valuation. Mr Roberts' valuation indicated a material increase in the value of the pension investments. However, this valuation could not have been correct, as the new pension structure had still not been established and, as a consequence, the pension investments had still not been made.
- 3.4.5 Over a period of 18 months, from the initial meeting with Client 3 to leaving the employment of IFA 1, Mr Roberts failed to make records of the meetings and communications which he had undertaken with Client 3. As a consequence, IFA 1 had no record of Mr Roberts' investment advice to Client 3, and no record of Client 3's request to establish the new pension structure.
- 3.4.6 Notwithstanding that Mr Roberts disputes the facts in this case, the JFSC regards Mr Roberts as having failed to have regard for the interests of his client and has concluded Mr Roberts acted with a lack of integrity.

3.5 Client 4

- 3.5.1 Whilst an investment adviser of IFA 2, unbeknown to IFA 2 and in contravention of its conflict of interest policy, Mr Roberts approached a 'retail client', Client 4, for an unsecured personal loan. This occurred during the course of providing investment advice to Client 4, on behalf of IFA 2. Client 4 had a below average appetite for investment risk and little investment knowledge and investment experience.
- 3.5.2 Mr Roberts advised Client 4 of the benefit of 'diversifying' their investments, by lending him directly £30,000 of their proposed investment monies, rather than investing the full sum into the 'mainstream' investment portfolio about which Mr Roberts was advising Client 4. Client 4 accepted Mr Roberts' advice and lent him £30,000. This loan is yet to mature. Client 4 has not raised a complaint.
- 3.5.3 Mr Roberts used the loan monies, received from Client 4, for personal expenditure and to settle personal liabilities. When entering into the loan arrangements, Client 4 was

not sighted as to Mr Roberts' financial position and was not aware of the purpose of the loan arrangements.

- 3.5.4 The JFSC regards Mr Roberts as having prioritised his own financial needs above those of Client 4 and in doing so displayed a lack of regard for the interests of Client 4. As a consequence the JFSC has concluded Mr Roberts acted with a lack of integrity.

4 Guidance for members of the public

- 4.1 Reducing the risk to the public of financial loss and protecting Jersey's reputation are two key responsibilities of the JFSC. The Investigation identified a number of matters which the JFSC believes should be used to raise awareness and encourage investors to reflect carefully on whether an investment recommendation is in their best interests. In particular, the JFSC considers it to be unacceptable for a member of Jersey's financial services industry, when acting in their professional capacity, to request a client or prospective client to lend them money in a personal capacity.
- 4.2 The JFSC has, along with the Personal Finance Society, produced guidance, in order to assist investors to protect themselves from investment mis-selling and poor advice. In relation to the Investigation, the following elements of this guidance are considered relevant:
- 4.2.1 Be wary of promises of a high rate of return with apparently little, or no, risk to your money. Greater returns mean greater risk. Remind yourself of the interest rate you earn on your sterling bank deposit. If the promised return is higher, your money is likely to be at greater risk than when it is held in your sterling bank deposit.
 - 4.2.2 Always research the person and the company selling you the investment, even if you think you know them and believe them to be trustworthy. You may have developed a good relationship, however you should regard this as a business transaction and always ask yourself whether they are acting in your best interest, or their own.
 - 4.2.3 Make sure you fully understand the proposed investment and only invest if you are completely informed, understand the risks, how the returns are generated and how much money you could potentially lose.
 - 4.2.4 Beware of putting money into 'can't miss', 'once in a lifetime' and 'guaranteed return' opportunities or investments in which your financial adviser claims to have invested their own money.
 - 4.2.5 Be wary if you are being invited to cash-in or sell an existing investment.
 - 4.2.6 Be aware of 'pushy' sales tactics. Never be rushed to make a decision. A professional financial adviser should never pressure you into making a quick decision. Take the paperwork away and read it in your own time, there may be hidden terms and conditions in the small print. If you are not given enough time to properly consider the opportunity or investment, steer clear of it.
 - 4.2.7 Reflect, research and take advice. Consider talking to friends, family or a third party expert before you proceed. Consider having someone to accompany you when you meet your financial adviser, particularly if you do not consider yourself an experienced investor.
 - 4.2.8 If you don't understand something, ask questions and make sure you get the answers so you are fully comfortable with your decision. How long will you be tied in for? Could you lose all your money?
 - 4.2.9 Remember, if it sounds too good to be true then it usually is.

5 Key learning points for Industry

- 5.1 Paragraph 3 of the IB Code (similar provisions exist in the other Codes of Practice issued by the JFSC) requires a registered person to assess and monitor the working practices, competence and probity of its directors, senior managers and all other employees. The investigation identified Mr Roberts' poor financial standing as being the primary factor in relation to his mis-conduct. In this regard, Mr Roberts made efforts to avoid his employers identifying his poor financial standing and mis-conduct. With this in mind, a registered person should not place over reliance on 'negative assurance' when monitoring the working practices of its employees. For example, making the assumption that because there are controls in place there is no Compliance Risk³, without first giving consideration to the effectiveness of the controls, including the level of employee adherence.
- 5.2 Pursuant to paragraph 3 of the IB Code (similar provisions exist in the other Codes of Practice issued by the JFSC), it is a requirement for any registered person to ensure that it has appropriate record keeping arrangements for compliance with, *inter alia*, regulatory requirements set by the IB Code. Notably, where Mr Roberts had failed to record details of his communications with Client 3, the majority of communications had taken place via 'LinkedIn' and telephone calls had been made from his mobile telephone, thereby circumventing his employer's oversight and record-keeping requirements. Registered persons should ensure that they have a clearly-communicated policy and procedure in relation to their employees' use of social media and mobile telephones as means of communicating with clients.

6 Conclusion

- 6.1 Following the Investigation, the JFSC has concluded:
- 6.1.1 Mr Roberts is not fit and proper to work in any capacity in or for any business regulated by the JFSC; and
 - 6.1.2 It is not appropriate for Mr Roberts to work in any capacity in or for any Schedule 2 Business supervised by the JFSC⁴,
- without the prior consent of the JFSC.

7 Sanction

- 7.1 The JFSC has, therefore, concluded it is necessary and proportionate in all the circumstances that directions are issued to Mr Roberts under Article 23 of the FS(J)L.
- 7.2 The directions prevent Mr Roberts from performing any function at all for, engaging in any employment at all by, or holding any position at all in any business licensed to conduct financial services business in Jersey. Mr Roberts has also been issued with equivalent directions under the other regulatory laws⁵ and the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008.

³ Compliance Risk: the risk of legal or regulatory sanctions, material financial loss, or loss to reputation a [registered person] may suffer as a result of its failure to comply with laws, regulations, rules, related self-regulatory organisation standards, and codes of conduct applicable to its [regulated activities]. (Source: *Basel Committee on Banking Supervision, Compliance and Compliance function in banks April 2005*)

⁴ Businesses such as lawyers, accountants, estate agents, lenders and high value goods dealers.

⁵ The Banking Business (Jersey) Law 1991, as amended; The Collective Investment Funds (Jersey) Law 1988, as amended; The Insurance Business (Jersey) Law 1996, as amended.

- 7.3 The directions shall remain in force until such time as Mr Roberts successfully applies to the JFSC, pursuant to Article 23(6) of the FS(J)L, for a variance or withdrawal of the directions.
- 7.4 Mr Roberts will commit an offence, under Article 23(15) of the FS(J)L, in the event he fails to comply with the provisions of the directions.
- 7.5 Pursuant to Article 23(15A) of the FS(J)L, any person who allows Mr Roberts to perform a function, engage in employment or hold a position knowing that such performance, engagement or holding is in contravention of the directions shall be guilty of an offence.

For further enquiries, please contact Barry Faudemer.