

IN THE ROYAL COURT OF GUERNSEY

ORDINARY DIVISION

Applicant:	THE GUERNSEY FINANCIAL SERVICES COMMISSION
Applicant's Advocate:	P NICOL-GENT
In the matter of:	THE PROTECTION OF INVESTORS (ADMINISTRATION AND INTERVENTION)(BAILIWICK OF GUERNSEY) ORDINANCE, 2008
In the matters of:	LANCELOT MANAGEMENT LIMITED THE GLOBAL MUTUAL FUND PCC LIMITED THE UNIVERSAL MUTUAL FUND ICC LIMITED THE WORLDWIDE MUTUAL FUND PCC LIMITED THE TRINITY GLOBAL FUND
Respondent's Advocate:	
Deponent:	PAUL DAVID YABSLEY
Affidavit number:	1
Date sworn:	22 April 2015
Number of pages:	1062
Exhibits:	PDY 1

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IN THE ROYAL COURT OF GUERNSEY
ORDINARY DIVISION

APPLICATION BY THE GUERNSEY FINANCIAL SERVICE COMMISSION

IN THE MATTER OF THE PROTECTION OF INVESTORS (ADMINISTRATION AND
INTERVENTION)(BAILIWICK OF GUERNSEY) ORDINANCE, 2008

IN THE MATTER OF LANCELOT MANAGEMENT LIMITED

AND IN THE MATTER OF THE GLOBAL MUTUAL FUND PCC LIMITED, THE
UNIVERSAL MUTUAL FUND ICC LIMITED and its seven incorporated cells, THE
WORLDWIDE MUTUAL FUND PCC LIMITED AND THE TRINITY GLOBAL FUND

AFFIDAVIT OF PAUL DAVID YABSLEY

SWORN ON THE 22nd DAY OF APRIL 2015

I, Paul David Yabsley of the Guernsey Financial Services Commission, Gategney Court, Gategney Esplanade, in the parish of St. Peter Port, Guernsey HEREBY MAKE OATH and say as follows.

1. I am a Senior Analyst in the Enforcement Division of the Guernsey Financial Services Commission (“the Commission”) and am authorised by the Commission to make this Affidavit.
2. I make this Affidavit in support of an application for the appointment of Administrators to Lancelot Management Limited (“Lancelot”), the Global Mutual Fund PCC Limited (“GMF”), the Universal Mutual Fund ICC Limited and its seven incorporated cells (“Universal”), the Worldwide Mutual Fund PCC Limited (“Worldwide”) and the Trinity Global Fund (“Trinity”) pursuant sections 1(1) and 2(1) of the Protection of Investors (Administration and Intervention) (Bailiwick of Guernsey) Ordinance, 2008 (the “Ordinance”).

3. Universal has seven incorporated cells being, Creative Growth Resource Fund IC Limited, Czar Resource and Yield Fund IC Limited, The Ascenta Special Situations Resource Fund (Euro) IC Limited, The Ascenta Special Situations Resource Fund (GBP) IC Limited, The Ascenta Special Situations Resource Fund (USD) IC Limited, The Excelsior Opportunities Fund (Guernsey) USD IC Limited and The Sovereign Opportunities Fund (GBP) IC Limited
4. In so far as the facts stated within this Affidavit are within my own knowledge they are true and in so far that they are not within my personal knowledge they are true to the best of my knowledge, information and belief. Where I refer to matters of information and belief, I indicate the source thereof and believe them to be true.
5. There is now produced and shown to me an exhibit marked "PDY 1", a true and paginated set of copy documents. Where I refer to the documents in this Affidavit, I identify them within Exhibit "PDY 1".

Lancelot Management Limited (Lancelot)

6. Lancelot was registered in Guernsey as a company on 2 June 2008 and is currently licensed under section 4 of the Protection of Investors (Bailiwick of Guernsey) Law 1987, as amended (the "POI Law") by the Commission to undertake the restricted activities of promotion, subscription, registration, dealing management, administration and advising in respect of category 1 (collective investment schemes) and category 2 (general securities and derivatives) controlled investments. Now shown to me at page 32 of Exhibit PDY 1 is the document of incorporation pertaining to Lancelot.
7. Commission records show that Lancelot was until on or around the 10 July 2014 owned by RDL Management Limited ("RDL"), a company registered in Mauritius which forms part of the Belvedere Group. In a restructuring of the group Lancelot became a sister company of RDL and Lancelot came under the direct ownership of Stonewood Holdings Limited the parent company to the companies forming the Belvedere Group. Now shown to me at pages 33 to 36 of Exhibit PDY

1 is a printout of Commission records and at page 37 a printout of the RDL web page and at page 38 a print out of the RDL website.

8. Mr Jacobus Everhardus Kellermann (“Mr Kellermann”) and Mr David Dawson Cosgrove (“Mr Cosgrove”) are the majority shareholders of RDL, with Mr Cosgrove and Mr Kenneth Maillard (“Mr Maillard”) acting as the directors of the company. In 2014 Mr Kellermann and Mr Cosgrove ceded a percentage of their shares in the Stonewood Group to Hardwork Investments Limited which is a company 100% owned by the Hard Working Man Trust, a trust to which a Mr David Silverman is the Settlor and primary beneficiary. Now shown to me at pages 40 to 41 of Exhibit PDY 1 is a share register and register of directors pertaining to RDL and at page 42 of Exhibit PDY 1 a printout of Commission records. Further, at page 43 of Exhibit PDY 1 an organogram showing the group of companies owned by Mr Cosgrove and Mr Kellermann as of March 2013 and at page 44 an Analysts chart again showing the Belvedere Group Structure.
9. RDL acts as the principal manager to a number of Mauritian authorised collective investment schemes including, but not limited to:
 - The Four Elements PCC Limited (“Four Elements”)
 - The Two Seasons PCC Limited (“Two Seasons”)
 - Lancelot Global PCC Limited (“Lancelot Global”)
10. For the purposes of this affidavit the relevant underlying cells of these structures are The Kwanda African Growth Fund (“Kwanda”) a cell of Four Elements, the Distressed Property Fund (DPF) and The Achilles High Yield Fund (“Achilles”), which are both cells of Two Seasons.
11. Mr Cosgrove and Mr Maillard act as directors of Four Elements, Two Seasons and Lancelot Global and their underlying funds. Now shown to me at pages 45 to 50 of Exhibit PDY 1 are extracts financial statements pertaining to both Four Elements and Two Seasons which declare the management structure of those schemes and at page 51 of Exhibit PDY 1 is an illustration of the relevant structures and cells.

12. Mr Kellermann acts as investment/portfolio manager to a number of the underlying cells, including Achilles, as a result of being an employee and/or owner (along with Mr Cosgrove) of companies to which the service of investment advisor has been outsourced.
13. Commission records show that the principal manager of the Global Mutual Fund PCC Limited (“GMF”) by way of a management agreement signed on 3 May 2006 was MitonOptimal Guernsey Limited. By a novation agreement dated 12 September 2007 made between MitonOptimal Guernsey Limited, GMF and Bordeaux European Managers Limited, Bordeaux European Managers Limited assumed all the rights, powers, duties and obligations of MitonOptimal Guernsey Limited under the 2006 agreement. By further novation of the 2006 agreement signed on 7 January 2009 the role of principal manager to GMF was assigned to Lancelot. Now shown to me at pages 52 of Exhibit PDY 1 is a print out of a Commission record pertaining to GMF and at pages 53 to 60 of Exhibit PDY 1 is the novation of management agreement between Lancelot, Bordeaux European Managers Limited and GMF dated 7 January 2009.
14. In addition Lancelot act as the principal manager to other collective investment schemes known as The Universal Mutual Fund ICC Limited and its incorporated cells, The Worldwide Mutual Fund Limited and the Trinity Global Fund (together the “Managed Funds” and together with GMF, the “Funds”). Now shown to me at pages 61 of Exhibit PDY 1 are screen print outs summarising Commission records pertaining to the managed funds.
15. Universal was registered in Guernsey as an incorporated cell company on 26 September 2007. At all material times Universal was an open-ended class B collective investment scheme authorised by the Commission under section 8 of the POI Law.
16. Worldwide was registered in Guernsey as a protected cell company on 27 May 2008. At all material times Worldwide was an open-ended class B collective investment scheme authorised by the Commission under section 8 of the POI Law.

17. Trinity (previously the Acorn Global Fund) is a unit trust which was created in October 2003. At all material times Trinity was an open-ended class B collective investment scheme authorised by the Commission under section 8 of the POI Law.
18. GMF is an open-ended protected cell company, limited by shares, which was registered in Guernsey on 27 March 2006. As of 26 January 2015, the Commission's records showed that GMF has 19 cells, six of which are suspended. Now shown to me at page 63 to 67 of Exhibit PDY 1 is the Guernsey Registry statement pertaining to GMF.
19. The Strategic Growth Fund (USD) (the "USD cell"), the Strategic Growth Fund (GBP) (the "GBP cell") and the Strategic Growth Fund (EUR) (the "EUR cell") (together the "Strategic Cells") are underlying cells of GMF. The GBP cell and the EUR cell are feeder cells for the USD cell. Now shown to me at pages 68 to 102 of Exhibit PDY 1 are the supplementary scheme particulars for the Strategic Cells.
20. On the 14 January 2011 an Administration Agreement was signed between GMF, Lancelot and Fund Corporation of the Channel Islands Limited (now trading as Lumiere Fund Services and hereinafter referred to as "Lumiere"). Now shown to me at pages 103 to 130 of Exhibit PDY 1 is the Administration Agreement.
21. The agreement outsources the function of Designated Manager of GMF to Lumiere and in return Lumiere provides administration, corporate governance and secretarial functions.
22. Lancelot as principal manager to GMF retains the function of the investment manager. It also retains the responsibility for, and the oversight of, the outsourced administration and investment advisory functions.
23. Enquiries show that between November 2008 and September 2012 Mr Kellermann was employed as an Investment Manager by Lancelot and acted as a director to GMF and the Managed Funds. Now shown to me at pages 131 to 164 Exhibit PDY 1 are Lancelot Board

minutes and at pages 165 to 185 GMF Board minutes. Lancelot minutes of the 19 November 2008 pages 131 and 132 refer to the employment of Mr Kellermann.

24. Enquiries show that from November 2008 Mr Cosgrove acted as, and continues to act as, a director of Lancelot, GMF and the Managed Funds.
25. During the relevant period other Directors of Lancelot were, and still remain, Mr Daryn Hutchinson and Ms Donna Francis. Now shown to me at pages 186 to 189 of Exhibit PDY 1 is the Lancelot record from the Guernsey Registry.
26. Research shows that also within the Belvedere Group is Belvedere Management Limited (“BML”), a company incorporated in Mauritius, which acts as an outsourced service provider, providing bookkeeping and other accounting functions to GMF and the Managed Funds. The services provided also include the provision of the NAV calculation in relation to the cells or sub-funds of GMF and the Managed Funds on an individual basis. Now shown to me at page 189 of Exhibit PDY 1 is open source material concerning the location and operation of the Belvedere Group and at pages 191 to 201 of Exhibit PDY 1 is an outsourced function agreement between Lumiere and BML. Lancelot minutes of the 19 November 2008 pages 131 and 132 refer to the previous and existing decision to employ BML.
27. Mr Kellermann and Mr Cosgrove are the majority shareholders in most of the companies forming the Belvedere Group. I refer you to the group structure chart at page 43 of Exhibit PDY 1.
28. Between November 2009 and March 2013 United Asset Management Sarl (UAM) were contracted by Lancelot to provide the services as investment advisor to the Strategic Cells. Now shown to me at pages 202 to 213 of Exhibit PDY 1 is a service contract between UAM and Lancelot.
29. Mr Kellermann was employed by UAM as an investment/portfolio manager to Strategic. Now shown to me at pages 214 to 217 of Exhibit PDY 1 are UAM fact sheets pertaining to the Strategic Cells and showing Mr Kellermann as the investment/portfolio manager.

30. Mr Cosgrove acted as a director of UAM up until or about October 2012.

Findings

31. Information available to the Commission indicates that during Mr Kellermann's tenure as investment/portfolio manager to the Strategic Cells, the cells made a series of investments into the underlying cells of two Mauritian based funds, Two Seasons and Four Elements. Two Seasons and Four Elements subsequently made a series of loans to, and high risk investments in, a number of South African based start-up companies linked to a South African incorporated company, Basileus Investments (Pty) Limited ("Basileus") and purchased land in Stellenbosch, the Lancelot Stellenbosch Mountain Retreat (the "Stellenbosch Property") from Lancelot Stellenbosch Mountain Retreat (Pty) Limited ("LSMR"). Numerous documents exist to support this assertion however now shown to me at pages 218 to 234 of Exhibit PDY 1 are letters composed by Mr Philip Rose who replaced Mr Kellermann as the investment/portfolio manager to the Strategic Cells in late 2012 and at pages 235 to 238 a letter from Mr Daryn Hutchinson concerning the fund issues. These documents, obtained by way of a Commission site visit on Lancelot in April 2013, give a broad overview of Mr Kellermann's activities and the illiquid nature of the investments of the Strategic Cells.
32. Information suggests that Mr Kellermann was instrumental in making these investments and acted unilaterally with little or no appropriate oversight of his activities by the respective principal and designated managers. Now shown to me at pages 740 to 1054 of Exhibit PDY 1, are documents showing various trade transactions pertaining to the Strategic Cells. The sample of transactions show a move from more traditional investments to higher risk private equity and property investments in South Africa. By way of examples Pages 791 to 848 shows a switch dated 19 January 2011 to the value of USD 10 million from the moderate risk Conservative Real Return USD Fund to the 4i International Property Fund ICC Limited ("4i"). Now shown to me at pages 734 to 757 of Exhibit PDY 1 is the Conservative Real Return USD Fund Fact Sheet, at 259 to 269 is the 4i prospectus and at 68 to 102 the Strategic Cells scheme particulars. This trade is

accompanied by a check sheet and a prospectus for 4i. Now shown to me at Pages 864 to 893 of Exhibit PDY 1 is a further purchase of shares in 4i dated 27 May 2011 for a further USD1 million. Both trade instructions are signed by Mr Kellermann and the e-mails concerning the trade show that Mr. Kellermann was the driving force behind the transactions. Pages 955 to 994 and 996 to 1005 of Exhibit PDY 1 show purchases of shares in Kwanda on 6 April 2012 for USD1.5 million and on 17 May 2012 for USD14 million, again these trades are driven by Mr Kellermann. The trade samples available to the Commission at this time are detailed in a spread sheet found at page 510 to Exhibit PDY 1.

33. I now refer to specific examples of conduct concerning Mr Kellermann's investment relating to the Stellenbosch Mountain Retreat and the BK One and Basileus transactions.

34. The Stellenbosch Transaction

- a. 4i was a fund incorporated in Jersey.
- b. The principal activity of 4i was property investment in South Africa.
- c. The fund prospectus, now shown to me at pages 258 to 268 of Exhibit PDY 1, shows that:
 - i. Ankh Analytic (Pty) Limited ("Ankh") acted as the investment advisor to 4i.
 - ii. Mr Kellermann was the managing director and a beneficial owner of Ankh
 - iii. Mr Kellermann was Ankh's investment/portfolio manager and these activities extended to 4i.
 - iv. Lancelot Development Holdings (Pty) Limited ("LDH") was employed by Ankh as a property advisor.
 - v. That Craig Young was a director and founder of LDH.
 - vi. That Mr Kellermann acted as a financial advisor to LDH.

Now shown to me at pages 269 to 270 of Exhibit PDY 1 are the incorporation documents of LDH.

- d. At the instruction of Mr Kellermann, at various stages during his tenure, trades amounting to an investment of at least USD20 Million were invested from the Strategic Cells into 4i.
- e. The funds were raised from the sale of shares in more traditional investment of a low/moderate risk into the higher risk area of property investment.
- f. Lancelot Stellenbosch Mountain Retreat (Pty) Limited (“LSMR”) is a subsidiary of LDH and uses the same business address as a number of Mr Kellermann related companies. Now shown to me at pages 273 to 275 of Exhibit PDY 1 are the incorporation documents of LSMR and at page 276 a spread sheet showing the identity and addresses of companies linked to Mr Kellermann and, at pages 277 to 305 documents pertaining to the formation of the S1 Trust and at pages 306 to 343 documents concerning the purchase of an office property known as Office 203, Pinehurst Building, Somerset Links Office Park, De Beers Avenue, Somerset West, Western Cape, 7130.
- g. On 23 September 2008, LSMR purchased the Stellenbosch Property for the sum of ZAR28 520 000.00 (Conversion figure as of 23 September 2008 ZAR15.2095 to £1.00 = £1,875,143). Now shown to me at pages 344 to 347 of Exhibit PDY 1 is a report from the South African Deeds Property office, at pages 348 to 350 is a conveyance summary and at page 351 is an illustration of the transaction pertaining to the Stellenbosch Property.
- h. Subsequent to this purchase two loans were made by Achilles, a cell of Two Seasons, to LSMR. These loans, totalling circa ZAR71 Million (Conversion figure as of 23 September 2008 ZAR15.2095 to £1.00 = £4,668,135.00), were secured by Mortgage Bonds over the property. The loans were for the development of the property.

- i. At this time the Strategic Cells were the main and possibly the sole investor into Achilles.
- j. The investment advisor to Achilles at this time was Lancelot Investments SARL which was ultimately owned by Mr Cosgrove and Mr Kellermann. Mr Kellermann also acted as the investment/portfolio manager. Now shown to me at pages 352 to 368 of PDY 1 is Mr Kellermann's Personal Questionnaire's (PQ's) submitted to the Commission.
- k. The Strategic Cells are also the principal/sole investor into the Kwanda African Growth Fund, a cell of Four Elements.
- l. In or around September/October 2010 the Strategic Cells made an investment into the Distressed Property Fund, a cell of Two Seasons. Now shown to me at pages 239 to 257 of PDY 1, is the substantive response from Lancelot dated 9 February 2015.
- m. About the same time The Distressed Property Fund, through a holding company, Transholding Investments Limited ("Transholding"), purchased the Stellenbosch Mountain Retreat from LSMR for Circa ZAR72 million (Conversion rate ZAR to GBP as of 1 October 2010 ZAR10.9839 to £1.00 = £6,555048.00).
- n. The conveyance document was signed by Craig Young on behalf of LSMR.
- o. The funds raised by this transaction were intended to be used to pay back the original Achilles High Yield loans.
- p. Examination of the Transholding share register, now shown to me at pages 369 to 371 of Exhibit PDY 1, shows that:
 - i. On 31 August 2009 the shareholding in Transholding was transferred from Belvedere Nominees to the Distressed Property Fund.
 - ii. On 17 November 2010 the shareholding in Transholding was transferred from The Distressed Property Fund to 4i.

- iii. On 6 July 2012 the shareholding in Transholding was transferred from 4i back to the Distressed Property Fund.
- q. The underlying asset of Transholding throughout was the Stellenbosch Property. The change in ownership of Transholding and therefore the Stellenbosch Property from the Distressed Property Fund to 4i between November 2010 and July 2012 is not recorded in the conveyancing document.
- r. The concerns over this transaction can be summarised as:-
 - i. It appears that at all stages of the transaction Mr Kellermann has declared conflicts to a degree but not to a level necessary to fully expose the true level of conflict which in relation to this particular example includes the Global Mutual Fund PCC Limited, the Strategic Cells, the 4i International Property Fund ICC Limited, The Achilles High Yield Fund, Ankh Analytic (Pty) Limited, Lancelot Stellenbosch Mountain Retreat (Pty) Limited and Lancelot Development Holdings (Pty) Limited. Companies and funds and companies for which he acted as director and/or investment advisor and was therefore able to influence the transactions at every stage.
 - ii. In the case of both the Achilles loan and the Distressed Property Transaction there appears to be no degree of independence, at any stage, to ensure the transaction was carried out at arm's length, this includes the absence of an independent valuation of the Stellenbosch Property.
 - iii. The funds paid to LSMR by way of a loan from Achilles were intended to be used to develop the property. It is suspected that little or no development was actually undertaken. This is supported by the fact that it appears that the requisite planning permission had expired and was not renewed until late 2014. Now shown to me at pages 372 to 388 of Exhibit PDY 1, a prospectus for the Stellenbosch property.

- iv. It is unclear at this time whether the funds paid to LSMR by the Distressed Property Fund for the Stellenbosch Property were repaid to the Achilles.
- v. There appears to be no meaningful oversight of Mr Kellermann's investment and trade activity.
- vi. The Distressed Property Fund is stated as being a fund that recognises projects that are in financial distress and which can be purchased at a discounted price for the benefit of investors (please refer to pages of the substantive response), in this case the ultimate investor was the Strategic Cells through the Kwanda Africa Growth Fund. The Distressed Property Fund paid circa ZAR72 million for a property that had been purchased for circa ZAR28 million some two years earlier, it is highly questionable that this can be described as fair value in what was a depressed market.
- vii. By the time of the Distressed Property transaction, Craig Young had already been publically condemned by the High Court of South Africa (Western Cape) for committing Perjury during the course of a civil trial and it was therefore inappropriate for him to be acting in connection with any investment scheme in any capacity. Now shown to me at pages 389 to 412 of Exhibit PDY 1 an extract from proceedings before the Court of the Western Cape in which Mr Young is publically criticised for perjuring himself. (it is of note that these proceedings concerned a loan to the Queensgate group of companies the former owners of the Stellenbosch property).
- s. It is recognised that Achilles, Kwanda and the Distressed Property Fund are cells of Mauritian based investment schemes but in each case the principal investor into these cells are the Strategic Cells, and any transaction will ultimately reflect in the value of the returns made to investors into the Strategic Cells.

35. **Basileus and BK One**

- a. On 5 March 2008 Basileus Investments (Pty) Limited (“Basileus”) was incorporated in South Africa. Open Source research shows that Julian Williams was the Chief Executive and a beneficial owner of the company. Now shown to me at pages 413 to 457 Exhibit PDY 1 is the BK One Prospectus, a document on which the information found at sections (b) and (c) and (h) to (j) are based.
- b. During the relevant period the companies owned within the Basileus Group were, amongst others:-
 - i. Cash Connect Management Solutions (Pty)
 - ii. Pure Ocean Aquaculture (Pty) Limited
 - iii. Agri-Technologies and Services (Pty) Limited
 - iv. Burgan Oil Services (Pty) Limited
 - v. Tor Oil Infrastructure Construction (Pty) Limited
 - vi. Lefatse Minerals (formerly Hamata Trading (Pty) Limited
 - vii. Kuwuleza Connect Holdings (Pty) Limited
 - viii. AV Alloy (Pty) Limited
- c. Kwanda Capital Investments (Pty) Limited (“KCI”) acts as investment advisor to Basileus and BK One (Pty) Limited (“BK One”).
- d. During the relevant period, and at the direction of Mr Kellermann, the Strategic Cells invested into Kwanda and became the majority shareholder owning the cell almost outright. Now shown to me at pages 510 of Exhibit PDY 1 is a spread sheet of the Kwanda Transaction.
- e. The Strategic Cells also invested into the Achilles cell of the Two Seasons and became the majority shareholder owning the cell almost outright. Now shown to me is the Rose letters at pages 218 to 234 of PDY 1.

- f. Directly and indirectly through Achilles and Kwanda, the Strategic Cells invested in and made loans to Basileus and its related companies.
- g. These loans and investments have subsequently been found to be highly illiquid in nature.
- h. BK One is a company incorporated in South Africa on 12 April 2011.
- i. BK One was formed as a joint venture between Basileus and its investment advisor KCI.
- j. BK One was formed as a vehicle through which capital investment would be made to support the Basileus related companies.
- k. On or about the 26 July 2012 Julian Williams was shot dead by Mr Herman Pretorius. the incident is reported to have resulted from a dispute between them concerning premiums paid to him from the Basileus related AV Alloy (Pty) Limited, which it appears was ultimately used by Pretorius to fund an alleged fraudulent investment scheme. Now shown to me at pages 458 to 491 of Exhibit PDY 1 open source reports and court documents showing sequestration proceedings taken against the estate of Mr Pretorius and at pages 492 to 506 Lumiere and Deutsche Bank file notes concerning the matter.
- l. This incident had a dramatic effect on the share price of BK One.
- m. The Ankh related fund BK One shares, which amounted to circa 1.4 million shares, were ultimately sold to the Strategic Cells for value of the 25 July 2012. Now shown to me at pages 506 to 508 of Exhibit PDY 1 transfer of BK One shares from Citygates Securities Limited (Citygate) to the Strategic Cells and a spread sheet showing all the Strategic Cell trades in Kwanda at page 510.

- n. Citygate is a Mauritian incorporated company and forms part of the Belvedere group. Now shown to me at page 43 PDY 1, is the Belvedere Group structure chart.
- o. Rather than a direct transaction between the Strategic Cells and Ankh, the shares were, in the first instance passed to the Mr Kellermann and Mr Cosgrove controlled Citygate.
- p. There is no evidence that has been made available to the Commission that suggests that Mr Kellermann made any attempt to inform his employers which, at that time were UAM and Lancelot or the board members of GMF of the Pretorius and Williams incident and the negative effect that this was likely to have on the now Strategic cells owned BK One shares and Basileus related companies.
- q. All aspects of this transaction are highly questionable and it without doubt the Ankh related funds holdings in BK One were sold to the benefit of investors in the Ankh funds and to the detriment of the investors in the Strategic Cells.
- r. Mr Kellermann was heavily conflicted in all parts of this transaction acting for both Ankh and the Strategic Cells, a conflict which I do not believe was declared but must have been known to both Mr Kellermann and Mr Cosgrove.
- s. There is no evidence of appropriate oversight of this transaction by the principal manager, the designated manager or the custodian to GMF, they appeared to be unaware of the conflicts and there is no evidence to suggest that they were aware at this time of the Williams and Pretorius incident, in as much as the incident, according to documents available to the Commission, is not reflected in any communication or board minutes of that period.
- t. The Basileus, BK One and Stellenbosch investments were highly illiquid in nature and as already suggested they were highly inappropriate for the Strategic Cells which were, according to scheme particulars, subject to daily dealing with redemptions

being made in cash, I am now shown at pages 511 to 515 of Exhibit PDY 1, an internal report from Deutsche Bank which sets out the custodians concerns and the Rose letters at pages 218 to 234 of Exhibit PDY 1.

- u. Mr Kellermann ceased to be investment adviser to the Strategic Cells in or around September 2012 after he was removed from the position by the owner of UAM, Mr Nigel Green. Now shown to me at pages 516 to 517 Exhibit PDY 1 is a letter from Mr. Green to Lancelot announcing the removal of Mr Kellermann and an intent to redeem funds from the Strategic Cells.
- v. Shortly after Mr Kellermann's resignation, the Strategic Cells were subjected to a series of high value redemptions. The redemptions in the later part of 2012, whilst of high value, represented, on the face of it an orderly withdrawal of funds from the Strategic Cells brought about by Mr Kellermann's replacement, Mr. Rose, and Mr Green. The reasons behind these redemptions are fully documented in the Rose letters.
- w. Both prior to and during the period when the Strategic Cells were subjected to the UAM redemptions there was a string of interaction between Mr Rose, Mr Cosgrove and the boards of GMF and Lancelot. This interaction which consists of both emails and written correspondence clearly evidences that Mr Cosgrove was very much the controlling mind behind all companies related to him and that he is both perplexed and annoyed by Mr Rose's intervention. Now shown to me at pages 518 to 572 of Exhibit PDY 1 the emails and letters between the relevant parties.
- x. Lancelot and GMF board minutes show that Mr Cosgrove failed to inform the respective boards of the reasons behind the removal of Mr Kellermann from his position with UAM. The minutes in fact reflect that Mr Kellermann resigned from UAM and that he was subsequently allowed to resign from his position with Lancelot and as director of the Funds. The board minutes also show that Mr Cosgrove was not

subject to challenge by other directors and where he was the challenge was short lived and not meaningful. This again tends to show that Mr Cosgrove was very much the controlling mind behind Lancelot and the Funds. Now shown to me at pages 131 to 164 of Exhibit PDY 1 minutes pertaining to board meetings of Lancelot and GMF.

- y. The level of redemptions made against the Strategic Cells exceeded funds raised by issue and because of the illiquid nature of the Strategic South Africa investments the fund reached a point whereby the redemptions could not be met, it followed that or about the 28 February 2013 trading in the Strategic Cells was suspended.
- z. An analysis of the redemptions made against the Strategic Cells in the days leading up to the suspension show that the majority of requests were from the accounts brokered by Citygate which is owned by Mr Kellermann and Mr Cosgrove. Now shown to me at pages 573 to 576 of Exhibit PDY 1 are graphs depicting the trades in the Strategic Cells.

- 36. That Mr Kellermann and Mr Cosgrove had a previous history with Mr Williams of Basileus is in no doubt. Now shown to me at pages 1053 to 1056 of Exhibit PDY 1 are documents which detail a review of Lancelot related businesses they were to administer.
- 37. One such company was Basileus International Fund Management Limited a company incorporated in Mauritius on 19 December 2008 and with a registered office at 7A, 7th Floor Ebene Mews, 57 Ebene Cybercity, Ebene Mauritius, the address used by companies affiliated to the Belvedere Group, the contact details for the company were given as BML. The principal contact is shown as Mr Maillard and the principal beneficial owners are shown as Mr Julian Williams and Mr James Ngulu, Mr Ngulu, a former South African politician and member of the ANC, is a director of Basileus in South Africa.
- 38. Further to this in June 2010 Mr Williams was proposed as a director in proposition to change the name of a Guernsey Company, Trinity Asset Management CI Limited to Pointhaven Asset

Management. I am now shown pages 1057 to 1061 of Exhibit PDY 1, documents which show the proposed transaction and due diligence procedures.

39. The analysis of this redemption activity leads to the suggestion that the Citygate redemptions were of such magnitude that they in fact were a major contributory factor to the suspension of the Strategic Cells. This analysis supports the inference that Lancelot, Lumiere and the Custodian failed to recognise these redemptions as being conflicted and as such failed to put steps in place to mitigate and control them to the detriment of the remaining investors. Investors remaining locked into the Strategic Cells, represent the clients of several institutions. for example Skandia and Royal London 360. Now shown to me at pages 677 to 685 of Exhibit PDY 1, tables which illustrate the identity of investors who remain locked into the suspended Strategic Cells.
40. In the cases of the trades referenced to at section 34 (The Stellenbosch Transaction) and 35 (Basileus and BK One) above there are in action a set of circumstances which evidence systemic failings in relation to corporate governance, oversight and the management and mitigation of conflicts of interest which allowed, principally Mr Kellermann to make the investments into high risk private equity and property investments in South Africa.
41. The trade orders previously referred to in this document refer to trades post January 2011, documents evidencing trades prior to this time have not been made available to the Commission at this time.
42. The documents which accompany each trade show a level of oversight that appears, on first examination, relevant to the trade but it is clear that this oversight extended to only ensuring that each trade appeared to fall within the parameters of the relevant scheme particulars and that there was no deeper investigation or understanding of what the trades actually represented and extend to investigating the risk weighting and liquidity of the ultimate investment.

43. The Designated Manager and Custodian of GMF and the Managed Funds are mandated to carry out the oversight of the trades and investments to the extent that they comply with the parameters set by the scheme particulars the ultimate responsibility for investment oversight lies with the investment manager, Lancelot.
44. Whilst Lancelot outsourced the function of investment advisor they cannot outsource responsibility and they, as the manager, have a duty to be monitor and to manage the investments being made on behalf of the Funds and the activities of their outsourced service providers, in this case the investment advisor.
45. It is clear that Lancelot failed to recognise this responsibility and this is evidenced by the Kellermann trades into highly illiquid and high risk investments and the subsequent collapse of the funds. These were investments that were totally at odds with the Class B investment scheme rules concerning the spreading of risk and investments into moderate to low risk funds. Now shown to me at pages 686 to 687 of Exhibit PDY 1 are minutes of an Lancelot meeting with Deutsche Bank which tend to show the directors lack of understanding in relation to their ultimate responsibility.
46. There was inadequate oversight of Mr Kellermann's activities. Whilst his trades are documented and processed by the designated manager the checks extend only to the extent that the trade is within the parameters set by the scheme particulars, there is a risk that this function can become nothing more than a tick box exercise and this it appears is what occurred in this instance, the checks associated to these trades went no further, which allowed Mr Kellermann to divert the Strategic Cells assets to South Africa both directly as per 4i and indirectly through the Four Elements, Kwanda Fund and Two Season Achilles Fund. These South African investments were not supported by independent valuation or analysis of the business models, cash flow analysis or any other form of analysis to support the investments. Rather Mr Kellermann was able to make these high risk investments unchecked either by the designated manager, the custodian or more importantly Lancelot, the investment manager.

47. Open source research suggests that questions concerning Basileus investments and its association to Herman Pretorius and an alleged fraudulent investment scheme became public knowledge in or around June 2012.
48. Mr. Kellermann was in a position to be fully aware of this assertion, as he was based in South Africa and had invested in the company through his Ankh Analytic managed funds.
49. Mr Kellermann at the same time was employed by UAM as the investment/portfolio manager for the Strategic Cells. Mr Cosgrove was a Director of UAM. Mr. Kellermann was employed by Lancelot as investment/portfolio manager, he was also joint owner of Lancelot along with Mr. Cosgrove. Both Mr Cosgrove and Mr Kellermann were directors of GMF. There is no evidence to suggest at any time did they raise the issue to the boards or management of UAM, Lancelot or GMF, concerning the possible devaluing or alleged fraudulent activity that may tarnish the Strategic Cells' investments in the Basileus related companies even around the time of the Julian William's shooting.
50. It was not until October 2012 when the Compliance function at Deutsche Bank became aware that the bank had been associated to the Williams and Pretorius incident that questions were finally asked over the activities of Mr Kellermann and the Strategic Cell investments, by this time Mr Kellermann had been removed from his position with UAM and had been allowed to resign from his positions with UAM, Lancelot and all the funds including GMF. Now shown to me at pages 686 to 687 of Exhibit PDY 1 Minutes of meetings between Deutsche Bank and Lancelot and at pages 688 to 689 of Exhibit PDY 1 is a copy of an email from Daryn Hutchinson on behalf of Lancelot and GMF to Deutsche Bank concerning the fund issues.
51. **The Mauritian Investigation**
- a. On the 20th October 2014 the Financial Services Commission of Mauritius ("MFSC") issued public notices concerning Four Elements and Lancelot Global.

- b. The announcements indicated that the MFSC were taking enforcement action against Four Elements and Lancelot Global and both companies have been prevented from taking on any new business or investors until the action is complete.
- c. As noted above the Manager of Two Seasons and Four Elements is RDL, the majority beneficial owners of which are, Mr Kellermann and Mr Cosgrove. Mr Kellermann and Mr Cosgrove also have or have had significant involvement with these funds as well as GMF and the Managed Funds in Guernsey. It is understood that a number of the Managed Funds have also invested into Four Elements, Two Seasons, Lancelot Global and their cells.
- d. As of the 20th January 2015, the MFSC had confirmed that their investigation concerned two particular strands. One strand concerned Anti Money Laundering issues with regards to Client Due Diligence requirements and the other concerned the detailed examination of the financial position of each cell of Four Elements and Lancelot Global and loans made by those cells. At that time the enquiries were on-going and the condition of 'no new business' remained over the funds.
- e. On the 20th March 2015 the MFSC withdrew the Authorisations for Four Elements and Lancelot Global to act as Collective Investment Schemes.
- f. On the 23 March 2015 the MFSC publically announced that they had appointed administrators in relation to Four Elements and Lancelot Global.
- g. On 30 March 2015 the MFSC announced that it had suspended the licence of RDL Management limited to act as a manager of collective investment schemes.
- h. On the same day the MFSC announced that it had appointed administrators to the whole of RDL's business activities.
- i. Now shown to me at pages 690 to 696 of PDY 1 are the notifications issued by the MFSC.

52. The GMF CWM Cells

- a. In November 2014 application was made by Collas Crill, as legal advisers to Lancelot, to the Commission to open five new cells under GMF. Now shown to me at pages 697 to 698 exhibit PDY 1 is a letter from Collas Crill seeking authorisation for the CWM Funds.
- b. There were CWM Capital Fund, CWM Balanced, CWM Equity Fund, CWM Prime Fund and CWM Property Fund. Now shown to me at pages 698 to 712 are the CWM Scheme Particulars.
- c. These funds were to be linked to a UK based company, CWM World, who would promote them through their CWM FX platform.
- d. As part of the application it was stated that the investment manager for the CWM cells was to be DRSL Management Limited a Mauritian based company of 7A, 7th Floor Ebene Mews, 57 Ebene Cybercity, Mauritius, which is also the address of BML and RDL Management Limited.
- e. Shareholders of DRSL were declared as Venture Assets PCC Limited – Venture Cell 21, also care of, Belvedere Management with the directors declared as a Mr Raymond Simpson and Mr Kenneth Maillard.
- f. Alongside Mr Cosgrove, Mr Maillard is a director of RDL and also acts as a director of Four Seasons, Four Elements and Lancelot Global.
- g. Venture Assets PCC Limited is a collective investment scheme to which RDL act as the investment advisors.
- h. The declared objective of the funds was stated as:-

“To achieve capital appreciation with moderate volatility, achieved by active currency management by investing substantially all of its assets in The CMW Solutions Fund (GBP) Segregated Portfolio of Brighton SPC”
- i. Due diligence on this application was undertaken by the Investment Division of the Commission.

- j. During the course of the application process there was correspondence between the Commission and the Collas Crill, legal counsel to LANCELOT, and DRSL. As a result of this correspondence an inference must be drawn that whilst Mr Cosgrove is not named as director or relevant individual for DRSL or Venture Assets PCC, he quite clearly sits behind those companies and has influence over their day to day operation and is also instrumental in the CWM Cell application. Now shown to me at pages 714 to 715 of Exhibit PDY 1 is the correspondence concerning the CWM application.
- k. The Commission declined to approve these funds on 18 December 2014. Now shown to me at page 716 of Exhibit PDY 1 is the Commission's letter declining authorisation.
- l. On the 20th March 2015 the City of London Police executed search warrants at the premises of CWM FX, the trading name of CWM World.
- m. This action was part of a City of London Police Investigation into what is believed to be a large scale investment fraud believed to have been perpetrated by the principals behind CWM and using existing CWM Cells, incorporated elsewhere but to which the Guernsey authorised cells were to be affiliated to. The City of London Police investigation is a matter of public record and they have asked for investors into the existing CWM funds to contact them. Now shown to me at pages 717 to 722 open source material concerning the City of London Police Investigation. The investigation as reported has been corroborated with information from the City of London Police.
- n. It is believed that the potential losses to investors will be in excess of GBP20 million.
- o. On the CWM site the Guernsey based cells were advertised as follows:

The CWM Fund Range (Guernsey) will constitute a "cell" within The Global Mutual Fund PCC. The current funds are shown below:

- CWM Capital Fund
- CWM Balanced

- CWM Equity Fund
 - CWM Prime Fund
 - CWM Property Fund
- p. While the Commission declined to approve these funds on 18 December 2014, the advertisement relating to these cells remained published on the CWM site until the CWM internet site was suspended in or around February 2015. Now shown to me at page 723 to 724 of Exhibit PDY 1 is a print out of the CWM FX web page.
- q. The full connection, if any, of Mr Cosgrove and those behind the application for the CWM cells is to be fully explored. However had these funds been authorised and operational, the potential for reputational risk to Guernsey could well have been significant. I now refer you to page 725 of Exhibit PDY 1, a copy of the warning concerning these cells published on the Commission web site.

53. **The Commission's Investigation**

- a. The Commission's investigation into Lancelot, GMF, the Managed Funds, Mr Cosgrove, Mr Kellermann, Mr Hutchinson and Ms Francis continues and is a matter separate to the current applications.
- b. As part of the investigation it is the Commission's intention to compel both Mr Cosgrove and Mr Kellermann as relevant persons under the pursuant of section 27 of the POI Law to attend before the Commission to answer questions or furnish information to the Commission.
- c. To this end the Commission, recognising that Mr Kellermann lives in South Africa and Mr Cosgrove lives in Mauritius, wrote to both parties informing them of the intention and requiring them to identify dates when they would attend the Commission. The correspondence was delivered by DHL and was signed for.

- d. Mr Cosgrove was required to respond by 10 April 2015 and Mr Kellermann by 26 March 2015.
- e. Neither party has responded to date.
- f. The Commission will now set dates for both Mr Kellermann and Mr Cosgrove to attend and notify them of the same.
- g. Now shown to me at pages 726 to 728 of Exhibit PDY 1 the request to Mr Cosgrove and at pages 729 to 731 the letter to Mr Kellermann.
- h. The Commission's concerns have been increased as a result of redemptions requests made of the Armstrong Global Fund, a sub-fund of Trinity. Redemption requests circa USD9 Million were received on or around 10 April 2015 which ultimately led to the suspension of this sub-fund. Now shown to me at page 732 to Exhibit PDY 1 is a letter from The Royal Bank of Canada concerning the suspension of the fund.

54. **Conclusion**

- a. There appears to be systemic failings in corporate governance and the application of law, regulation, code and principle to the management and function of GMF and the Managed Funds by Lancelot and the respective boards. This is evidenced by the matters relating to the failures relating to the management of the conflicts of interest.
- b. Significant and systemic conflicts of interest exist in relation to certain cells of the GMF and their underlying assets. These conflicts of interest do not appear to have been dealt with appropriately by Lancelot. The failure to manage the conflicts of interest appropriately appears to have given rise to circumstances which have negatively impacted the value of the assets of certain cells of GMF. Such reduction in the value of the assets of certain cells has led to issues relating to the liquidity of these cells.

- c. Mr Cosgrove sits on the boards of Lancelot and the Funds, the he is very much the controlling mind of these investment schemes. Mr Cosgrove in his actions does not appeared to have displayed all of the attributes required of a director of a licensee to be fit and proper and has not even responded to the Commission's letter relating to proposed dates for an interview. Further the Commissions concern that this conduct has or may extend to the Managed Funds.
- d. The remaining board members of Lancelot and GMF have failed to recognise the issues that brought about the suspension of the Strategic Cells.
- e. In addition, the significant nature of the investigations by MFSC, which includes investigation into the financial position of funds into which GMF and the Managed Funds have been invested, gives rise to further concerns that Four Elements and other funds, may not be correctly valued. This gives further rise to concerns that the value of the underlying assets of cells of the Funds may not be correctly reflected. Further to this, the commonality of persons between Lancelot, the GMF and the Managed Funds and the entities under investigation by the MFSC show the significant conflict of interests which exist in respect Lancelot, the GMF and the underlying assets and investments. This conflict extends to a number of other Managed Funds which have advisers with similar ownerships or investments into Four Elements and Two Seasons.
- f. The serious nature of the issues set out above and the known impact which these have had on certain cells of GMF has led the Commission to the view that there is a high risk that the behaviour which has caused this, including the failure to manage conflicts of interest, also affects the Managed Funds. Due to the risk of contagion, there is a risk that the value of the underlying assets of such funds are not accurately known and that the net asset value attributed to the various cells is incorrect. Accordingly, the Commission has concerns that the value for redemptions of shares

in cells of GFM as well as shares in other Managed Funds are being made, and the value at which shares in the cells of GMF and other Managed Funds are being issued, may not reflect the actual net asset value of such cells or funds (as relevant).

g. Further, due to the conflicts of interest relating to Lancelot, GMF and their advisors, and a failure to manage and mitigate these conflicts appropriately, the unacceptable standard of corporate governance and questions over suitability and integrity pertaining to certain key individuals in the management and operation of the funds, the Commission feels that it is necessary to take such steps to as necessary to:

i. prevent further devaluation of the funds and assets therein; and

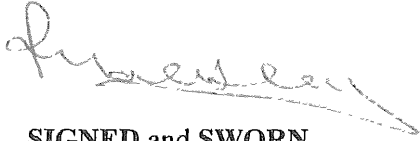
ii. to protect investor and their assets.

h. Further, Lancelot's apparent failure to deal with the conflicts of interest appropriately in relation to GMF and its advisers has led the Commission to the view that there is a high risk that the behaviour which has caused this also affects other Managed Funds. This concern is particularly acute where funds and their advisers have persons in common.

55. The application seeks the appointment each of Mr Alan John Roberts and Mr James Robert Toynton as joint administration managers. Mr Roberts is a Chartered Accountant and a UK Licensed Insolvency Practitioner and has been specialising in insolvency and restructuring work for over twenty years. Mr Roberts qualified with one of the big four accountancy firms and have worked in the UK, US, Caribbean, Europe, Far East and the Channel Islands. Mr Roberts has experience of contentious insolvency issues, complex asset recovery, forensic accounting investigations and multi-jurisdictional insolvency litigation cases. Now shown to me at page 1063 of Exhibit PDY 1 is a copy of Mr Roberts' curriculum vitae.

56. Mr Toynton is a Certified Accountant and a UK Licensed Insolvency Practitioner, specialising in corporate insolvency and recovery. He has experience gained in fiduciary, commercial and

private practice sectors. His varied appointments as liquidator in the financial sector include investment funds, hedge funds, trust companies, banks, insurance companies and captives. Now shown to me at page 1064 of PDY 1 is a copy of Mr Toynton's curriculum vitae.



SIGNED and SWORN

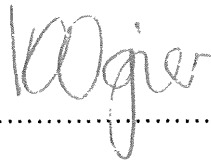
by the said Paul David Yabsley

at St Peter Port

the 22nd day of April 2015

before me

Notary Public


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