

## Carlos Fragoso

**Case ID:**

ARW-225

**Jurisdiction of Origin of Public Official or Entity Allegedly Involved:**

Mozambique

**Position of Public Official(s) (yrs in office):**

National Director, National Directorate of Roads and Bridges (1997-1999); President of the Board of Directors, National Roads Administration (1999-2003)

**Jurisdiction of Asset Recovery:**

Jersey

**Jurisdiction of Asset Recovery ? Description:**

Location of Recovery Effort; Asset Location/Alleged Asset Location

**Asset Recovery Start:**

2010

**Asset Recovery End:**

Ongoing

**UNCAC Offenses Implicated:**

Art.16

Art.23

**Legal Basis for Asset Recovery:**

Non-Conviction Based Asset Confiscation

**Contributing Factors in Asset Recovery:**

Judgment held that the trustee of a Trust Fund held the funds deemed to be illicit proceeds as constructive trustee for the Government of Mozambique, stating in part that "there are important reasons of policy for this Court to follow [the UK Privy Court decision in Attorney General for Hong Kong v.] Reid, namely the need to deter fraud and corruption and to have the ability to strip fiduciaries who have channelled their illicit funds through this jurisdiction of all benefits." (Source: Lloyds Trust Co. (CI) Ltd. v. Fragoso and others, [2013] JRC 211, para 28.)

**Status of Asset Recovery :**

Ongoing

**Stage in Asset Recovery Chain:**

Judgment by Court of First Instance

**Assets Adjudicated, Not Yet Returned - Description:**

\$645,182 (Value of trust as of October 31, 2013 Judgment)

**Agreement for Returned Assets:**

Ongoing

**Case Summary:**

According to the October 31, 2013 Judgment by the Isle of Jersey Royal Court in Lloyds Trust Co (Channel Islands) Ltd. v. Fragoso, Hoy, Government of Mozambique and HM Attorney General {[2013] JRC 211), the funds held in The Rex Trust formed by Mr. Fragoso was ordered to be paid to the Government of Mozambique. In so doing, the Court held that Lloyds Trust Co as the trustee of the Rex Trust held the funds as constructive trustee for the Government of Mozambique. As described in the Judgment, the Trust was established in 1999 by Mr. Fragoso who had described himself as a civil engineer and he informed the

Lloyds TSB Offshore Trust Limited that the funds settled into the Trust were the proceeds of civil engineering consultancy contracts. "He did not disclose that he held public office in Mozambique." (para 3) In 2010, Lloyds Trust became aware of the conviction of the UK engineering firm Mabey & Johnson on charges of foreign bribery and that the Prosecution's Opening Statement included mention of bribes paid by the company to Mr. Fragoso in 1997 and 2000. In 2010, Lloyds filed a Suspicious Activity Report to the Jersey Financial Crimes Unit and informed Mr. Fragoso of its concerns and "required him to provide evidence as to the source of the funds, and specifically, that the funds were not the proceeds of crime." (para 6). Lloyds, joined by the Government of Mozambique, sought an order from the Jersey Royal Court that the trust fund, net of costs, be paid to the Government of Mozambique. The Court held that "It is true that it is not possible to trace all of the funds within the Trust back to Mabey & Johnson, but we find that, on the balance of probabilities, all of the funds within the Trust represent bribes received by Mr. Fragoso in his role as a public officer for Mozambique" including for the reasons that he lied to Lloyds as to his occupation and source of funds when the Trust was established and his inability to produce any evidence as to the source of the remaining funds within the Trust which cannot be traced back to Mabey & Johnson and that his legitimate source of income during the material period was his salary [which according to the information provided by the Government of Mozambique was equivalent to 1,500 Euros per month] (paras 12 and 18).

**Disposition of Criminal Case(s):**

Unknown

**Jurisdiction of Origin: Investigative Agency:**

National Roads Administration

**Jurisdiction of Origin: Prosecuting Authority/Civil Attorney(s):**

Attorney General

**Jurisdiction of Asset Recovery: Investigative Agency:**

Jersey Financial Crimes Unit



**Jurisdiction of Asset Recovery: Prosecuting Authority/Civil Attorney(s):**

Attorney General

**Jurisdiction of Asset Recovery: Courts Involved:**

Royal Court (Samedi Division)

**Documents:**

<b>Attachment</b>	<b>Size</b>
 Fragoso_Jersey_Lloyds_Constructive_Trust_2013_JRC_211.pdf	387.87 KB
 Fragoso_Jersey-Court-Endorses-Proprietary-Claim-to-Proceeds-of-Corruption_Baker_Partners.pdf	73.26 KB

**Other Sources:**

Bet. Lloyds Trust Company (Channel Islands) Limited and Carlos Fragoso and others, [2013] JRC 211, at [http://www.jerseylaw.je/judgments/unreportedjudgments/documents/display....\(CI\)\\_Ltd\\_211.htm](http://www.jerseylaw.je/judgments/unreportedjudgments/documents/display....(CI)_Ltd_211.htm);

Baker & Partners, "Jersey Court Endorses Proprietary Claim to Proceeds of Corruption in re: the Representation of Lloyds TSB Offshore Trust Company Limited," (undated), at <http://www.bakerandpartners.com/media/18948/Jersey-Court-Endorses-Propri...>