Ministerial Statement by Minister Paula Cox

Mr. Speaker,

I rise this morning to advise Honourable Members of a significant legal victory by Bermuda authorities in a formidable challenge to Bermuda’s reputation as a premier international financial centre.

On 7th May 2008 in the Supreme Court of Bermuda, Justice Kawaley ordered that a group of companies collectively referred to as IPOC be wound up under the provisions of sections 132(10)(a) and 161(g) of the Companies Act 1981.

Mr. Speaker, the Winding-up Order concluded a long and complex process that began in 2004.

In March 2004, as Minister of Finance and using the powers of section 132 of the Companies Act 1981, I appointed Malcolm Butterfield and Michael Morrison of KPMG Financial Advisory Services Ltd. as inspectors to conduct a detailed and independent investigation into the affairs of IPOC. The complex nature of the investigation required extensive work involving a considerable volume of documentation from a number of jurisdictions.

The terms of reference of the inspections included the following: a) to identify the source of IPOC’s funds; b) to consider whether IPOC adhered to undertakings given to the BMA; c) to analyse the IPOC Group’s structure; and d) to determine whether Bermuda’s laws were breached.

The nature of the investigation and the wide-ranging scope and interlocking network of companies required considerable detailed investigation and analysis of the corporate structure and on-site visits to other jurisdictions. This was no simple task. It was also a very costly exercise. However, Bermuda’s reputation as a well-regulated financial centre was on the line and as Minister of Finance it was my duty to protect it.

The Inspectors presented their findings to me as Minister of Finance in June 2006. Following my examination of the Inspectors’ report, I concluded that it was in Bermuda’s best interests to petition the Courts to wind up the companies. The wind-up petition was presented to the Supreme Court in January 2007.

Mr. Speaker, in the course of this long-running saga every available follow-up action was taken and there were many twists and turns. As a jurisdiction, we expended considerable time and energy to protect, preserve and to enhance Bermuda’s position in the international marketplace.

In addition to the civil action in Bermuda’s Courts, Bermuda authorities cooperated with authorities in other jurisdictions to assist in criminal lines of enquiry involving IPOC. The recent criminal conviction against IPOC in the British Virgin Islands resulted from the joint efforts of Bermuda and BVI authorities.

As a result of the criminal conviction in the BVI, some $45 million of assets belonging to IPOC has been confiscated and will be shared equally between the British Virgin Islands and Bermuda. Bermuda’s share of these proceeds will be placed in the Confiscated Assets Fund and used in accordance with the legislative strictures in place for the use of confiscated assets.

Mr. Speaker, as Minister of Finance, I am very pleased also at the opportunity to get back the funds that were expended to bring the enforcement action to this conclusion. The IPOC group has been ordered by the Bermuda Supreme Court to pay the litigation costs associated with Bermuda’s legal team in this matter.

Mr. Speaker, I wish to thank the Ministry of Finance officials for their strategic leadership of the process from start to finish; the legal team for their highly skilled execution of the game plan; and, the Bermuda Monetary Authority and the Bermuda Police Service for their integral support roles during the course of the investigation.
The team was resolute, skilled and strategic in meeting the challenge. Their sterling and committed efforts delivered an historic victory in defense of Bermuda’s national interest and reputation.

Collectively, they have done Bermuda proud!

Mr. Speaker, investigations such as these are not as simple as a flick of the switch. They require tedious, painstaking methodical work on all fronts to minimise slippage. No informed person could reasonably expect that it would be accomplished overnight. However I think, separate and apart from the sweetness of the outcome in this case, even more importantly it sends a clear message and signal that Bermuda will not shy away from taking the necessary legislative and regulatory action to bolster our reputation and our regulatory practices and national interest.

Mr. Speaker, it is important also to note that Bermuda’s FIU has been a long standing member of the Egmont Group of financial intelligence units.

In fact, last June, Bermuda hosted the Annual Plenary Meeting of the Egmont Group where the Bermuda Charter formalising the Egmont Group was adopted.

So Mr. Speaker, let me say that for all these reasons and more, the legal success was made even sweeter and offered a rebuttal to those recently who have been loose-lipped and less than informed about the commitment of Bermuda to upholding its reputation and taking the requisite action to bolster and further enhance our regulatory regimes.

Further Mr. Speaker, Honourable Members will be pleased to know that at a plenary meeting of the Caribbean Financial Task Force in Haiti in early May 2008, the International Monetary Fund commended Bermuda’s representatives for the progress and work done to date on enhancements to our regulatory regime in response to the recommendations in the IMF assessment conducted in 2007.

Thank you Mr. Speaker.

Home » Newsroom » Statements