

## **Press Statement by the Director of Corporate Enforcement**

### **Mr Sam Field-Corbett Disqualified for Three Years by the High Court Today**

Mr Paul Appleby, the Director of Corporate Enforcement, has welcomed today's decision of the High Court to disqualify for three years Mr Sam Field-Corbett in consequence of the findings made by High Court Inspectors in their Report on Ansbacher (Cayman) Ltd. Mr Field-Corbett's disqualification is the second disqualification arising directly from the Ansbacher Report; Mr Pádraig Collery was disqualified for nine years on 9 March 2006.

In her judgement this morning, Ms Justice Finlay-Geoghegan noted the findings of the Inspectors in relation to the role played by Mr Field-Corbett in the matters which were the subject of their investigations. She noted in particular his role with respect to Hamilton Ross Company Ltd. On the basis of those findings, she determined that Mr Field-Corbett's conduct made him unfit to be concerned in the management of a company for a period of three years. In determining this period, the judge indicated that but for the mitigating circumstances advanced by counsel for Mr Field-Corbett, the appropriate period of disqualification would have been one of six years.

The judge acceded to an application by counsel for Mr Field-Corbett that commencement of the disqualification period would be postponed for four weeks. This is to allow Mr Field-Corbett an opportunity, where necessary, to make appropriate arrangements in regard to those companies with which he is currently involved.

In a short comment on the High Court judgement, Mr Appleby said:

*“The Ansbacher Inspectors found that there was evidence tending to show that Mr Field-Corbett assisted two companies (Ansbacher (Cayman) Ltd. and Hamilton Ross Company Ltd.) in carrying on banking businesses in the State in breach of banking and company law. In particular, the Inspectors were critical of his significant facilitative role with respect to Hamilton Ross operations in the 1994 to 1997 period.*

*The High Court judgement is the second disqualification arising directly from the Ansbacher Inspectors' Report. My Office will continue to work to create*

*the conditions for good corporate compliance so as to reduce the likelihood of similar malpractice with respect to the operations of companies arising in the future.”*

**30 January 2007**

**ENDS**

## **Editors' Note**

High Court Inspectors were appointed to inquire into Ansbacher (Cayman) Ltd. and related matters on 22 September 1999. The Inspectors' Report was published on 6 July 2002 by order of the High Court.

Mr Field-Corbett is the second person to have been disqualified by the High Court arising from the findings in the Report; Mr Pádraig Collery was disqualified for nine years on 9 March 2006. In seeking a disqualification order against Mr Field-Corbett, the Director drew the Court's attention to a number of findings of misconduct made against him in the Inspectors' Report. These findings, together with a number of the Inspectors' more general findings, are summarised in **Appendix 1** to this Note.

Section 160(2) of the Companies Act 1990 (as amended) permits applications for disqualification to be made on various grounds. A copy of section 160(2) is attached as **Appendix 2** to this Note. The relevant ground on which the proceedings were taken against Mr Field-Corbett was paragraph (e) of section 160(2).

The nature and effect of a disqualification order is dealt with in section 159 of the 1990 Act - see **Appendix 3**.

If you wish to clarify any aspect of this Press Statement, please contact Paul Appleby at (01) 8585800.

**Office of the Director of Corporate Enforcement**

**30 January 2007**

## Appendix 1

### Findings of the High Court Inspectors' Report into Ansbacher (Cayman) Ltd.

#### SUMMARY

1. The Inspectors' Report (pages 489-491 and 500 and 501) concluded that both Ansbacher (Cayman) Ltd. and Hamilton Ross Company Ltd. knowingly engaged in business in the State over a prolonged period without conforming to specific requirements in the Companies and Central Bank Acts. The Inspectors also concluded that there was evidence tending to show that both companies breached tax law and the general criminal law and facilitated widespread tax evasion by their clients.
2. Insofar as Mr Field-Corbett was concerned, the Inspectors examined the assistance provided by him to Ansbacher (Cayman) Ltd. and to Hamilton Ross Company Ltd. Based on the evidence before them, the Inspectors concluded in their Report (paragraph 29.14) that there was evidence to show that:
  - “1. From 1994 to 1997, Mr Sam Field-Corbett may have acted in breach of Section 7 of the Central Bank Act, 1971 (as amended), by aiding and abetting in the manner envisaged by Section 8 of the Accessories and Abettors Act, 1861 and/or Section 7(1) of the Criminal Law Act, 1997, thereby rendering himself responsible as a principal offender.
  2. Mr Field-Corbett assisted Hamilton Ross in breaching Section 355(b) of Part XI of the Companies Act, 1963.”

#### Inspectors' Report

3. In their Report, the Inspectors summarised their conclusions in respect of Ansbacher's Irish business in Ireland from its incorporation in 1971 to the mid-1990s as follows:
  - “1. The ‘memorandum account’ system was operated by Guinness and Mahon and GMCT (i.e., Guinness Mahon Cayman Trust Limited, the company subsequently renamed Ansbacher) in a deliberately complex and secretive manner which concealed the names of the clients involved while allowing them to lodge and withdraw funds to and from accounts held nominally for GMCT.

2. *Loans were obtained from Guinness and Mahon for GMCT clients on the security of their GMCT deposit, while the existence of this deposit was deliberately omitted from the loan agreement documentation and therefore the general regulatory system of Guinness and Mahon where it would have been seen by bank and Revenue auditors.*
3. *Ansbacher had established places of business within the State, being at first the premises of Guinness and Mahon and later the premises of CRH plc.*
4. *Ansbacher knowingly breached Sections 352, 353, 355 and 357 of Part XI of the Companies Act, 1963.*
5. *Ansbacher carried on banking business in Ireland without holding a licence to do so, which conclusion leads the Inspectors to further conclude that there is evidence tending to show that Ansbacher breached Section 7 of the Central Bank Act, 1971 (as amended).”*

(Pages 489 and 490 of the Report.)

4. The Inspectors also found that there was evidence tending to show that:

- “6. *The discretionary trust structure as operated by GMCT in conjunction with Guinness and Mahon – through its policy of concealing the true object of the trust, the retention of control by the prime mover over the assets of the trust and the access to the funds provided to the prime mover who could withdraw funds in Dublin – amounted to a sham trust structure. There is also evidence to show that the discretionary trust scheme facilitated widespread tax evasion.*
7. *That the affairs of Ansbacher were conducted with intent to defraud a creditor of some of its clients, that is the Revenue authorities.*
8. *That Ansbacher may have committed a number of criminal offences, namely:*
  - a) *the common law offence of conspiracy (with, inter alia, some of its clients) to defraud, and*
  - b) *the offence of knowingly aiding, abetting, assisting, inciting or inducing another person to make or deliver knowingly or wilfully any incorrect return, statements or accounts in connection with their tax contrary to the provisions of the appropriate tax legislation, now consolidated in Sections 1056 and 1078(2) of the Taxes Consolidation Act, 1997.*

9. *That Ansbacher breached Section 5 of the Finances (Miscellaneous Provisions) Act, 1968 by failing to deliver to the Revenue Commissioners a statement in writing containing the particulars set out therein.*
10. *That Ansbacher breached Sections 141 and 142 of the Corporation Tax Act, 1976.*
11. *That Ansbacher failed to pay Corporation Tax lawfully due.*
12. *That Ansbacher breached Section 31 of the Finance Act, 1974.*
13. *That Ansbacher failed to make deductions from payments to employees, contrary to Section 126 of the Income Tax Act, 1967 (now Section 985 of the Taxes Consolidation Act, 1997).*
14. *That Ansbacher may have been in breach of Section 10(a) of the Cayman Islands Banks and Trust Companies Law, 1989 (as amended).”*

(Pages 490 and 491 of the Report).

5. The Inspectors also examined a company called Hamilton Ross Company Limited (“Hamilton Ross”) as a related matter. Based on the evidence before them, the Inspectors concluded that between 1992 and early 1997:

- “1. *Hamilton Ross had established places of business within the State, being at first the premises of CRH plc and later the premises at Inns Court, Winetavern Street, Dublin.*
2. *Hamilton Ross knowingly breached Sections 352, 353, 355 and 357 of Part XI of the Companies Act, 1963.*
3. *Hamilton Ross carried on banking business in Ireland without holding a licence to do so, which leads the Inspectors to further conclude that there is evidence tending to show that Hamilton Ross breached Section 7 of the Central Bank Act, 1971 (as amended).”*

(Page 500 of the Report).

6. The Inspectors further concluded that there is evidence tending to show that:

- “4. *The affairs of Hamilton Ross were conducted with intent to defraud creditors of some of its clients, that is the Revenue authorities.*
5. *Hamilton Ross was guilty of a number of criminal offences, namely:*

- a) *the common law offence of conspiracy (with, inter alia, their clients) to defraud, and*
- b) *the offence of knowingly aiding, abetting, assisting, inciting or inducing another person to make or deliver knowingly or wilfully any incorrect return, statement or account in connection with their tax, contrary to the provisions of the relevant tax legislation now consolidated in Sections 1056 and 1078(2) of the Taxes Consolidation Act, 1997.*
6. *Hamilton Ross breached Sections 141 and 142 of the Corporation Tax Act, 1976.*
7. *Hamilton Ross failed to pay Corporation tax lawfully due.*
8. *Hamilton Ross breached Section 31 of the Finance Act, 1974.*
9. *Hamilton Ross failed to make deductions from payments to employees, contrary to Section 126 of the Income Tax Act, 1967 (now Section 985 of the Taxes Consolidation Act, 1997)."*

(Page 501 of the Report).

### **Inspectors' Detailed Findings with respect to Mr Field-Corbett**

7. As appears from the Report (paragraph 19.1), Mr Field-Corbett was a close associate of Mr Desmond Traynor and had worked with him in Haughey Boland. On leaving the firm in 1973, Mr Field-Corbett established a business, Management Investment Services Limited, which operated a bookkeeping service from a premises belonging to Guinness and Mahon. Mr Field-Corbett benefited from referrals from Guinness and Mahon and retained close contact with Mr Traynor.
8. With regard to the assessment of responsibility of Mr Field-Corbett for the wrongdoing of Ansbacher, the Inspectors reported at paragraph 19.2 that:

*"Some of the persons to whom Mr Field-Corbett provided a service were Ansbacher clients. Mr Field-Corbett accepted in evidence his involvement in a number of such cases. He also accepted his involvement, with two other persons, in a loan, which was backed by Ansbacher funds. This aspect of his involvement is dealt with in Chapter 23. In general, Mr Field-Corbett was used by Mr Traynor as a facility to be offered to clients who needed a point of contact between Mr Traynor and their offshore funds. There is no evidence that he was a principal or exercised any*

*primary control over any offshore funds prior to Mr Traynor's death. He knew of the Ansbacher scheme, but had no part to play in its control."*

(Page 219 of the Report)

9. The Inspectors also find that Mr Field-Corbett was a client of Ansbacher, and they identified in their Report the nature of that client relationship (page 315 of the Report).
10. With regard to Mr Field-Corbett's role in Hamilton Ross, the Inspectors stated in paragraphs 19.3 and 19.4 as follows:

***"19.3 Hamilton Ross business operating from Mr Field-Corbett's premises***

*After Mr Traynor's death, it became necessary to find an office to relocate the business of Hamilton Ross. This task fell to Mr Collery. Mr Field-Corbett made office accommodation available to him at 8 Inns Quay, Winetavern Street, Dublin and this was used by Hamilton Ross until 1997.*

***19.4 Mr Field-Corbett's role in Hamilton Ross***

*In addition, Mr Field-Corbett was installed as one of the signatories on the Hamilton Ross account. From that time on, Mr Field-Corbett played a substantial part in the Irish operation of Hamilton Ross, which, as described earlier, was a continuation of the Ansbacher business in Ireland. The Inspectors conclude that, from that time on, Mr Field-Corbett can be properly described as an agent of Hamilton Ross in Ireland. Mr Field-Corbett sought in evidence to minimise his involvement and to place responsibility for the operation on Mr Collery and Mr Furze. However, the Inspectors' note that Mr Field-Corbett was paid a sum of STG£35,000 by Mr Furze during the course of his work for Hamilton Ross. This sum was in addition to his fees from his long established offshore clients.*

*From an examination of the correspondence and from the evidence of Mr Collery, it appears that Mr Field-Corbett's involvement was administrative rather than managerial. It is clear that the control of the operation rested with Mr Furze as regards offshore matters and with Mr Collery in Ireland. Mr Field-Corbett seems to have facilitated the running of Hamilton Ross rather than controlled it. However, the level of his involvement on a day-to-day basis was significant. All Hamilton Ross letters written over a two to three year period, whether signed by Mr Collery or Mr Field-Corbett, were produced in Mr Field-Corbett's office. Mr Field-Corbett also became a signatory on the account called Darsley Nominees Limited which was used to disburse payments from offshore funds to Hamilton Ross clients in Ireland".*

(Pages 219 and 220 of the Report)

11. With regard to the assessment of Mr Field-Corbett's assistance for the wrongdoing described in their Report, the Inspectors indicated at paragraphs 19.5 to 19.7 that:

***“19.5 Conclusions***

*From the knowledge he had gleaned from his contact with Ansbacher clients, it must have been clear to Mr Field-Corbett that Hamilton Ross was operating a banking business from his premises and that his contribution was an important part of its work. The Inspectors have concluded that Hamilton Ross is a ‘related matter’ on which the Inspectors must report in accordance with the Order of the High Court (see Chapter 24). The Inspectors have further concluded in Chapter 24 that there is evidence tending to show that Hamilton Ross operated an unlicensed banking business from 8 Inns Court Winetavern Street, the premises supplied by Mr Field-Corbett. Mr Field-Corbett was fully aware of the nature and scale of the operation carried out on his premises even if he did not have executive responsibility for it.*

***19.6 Possible criminal offence***

*The Inspectors have considered the level of Mr Field-Corbett's involvement and have concluded that in supplying and continuing to supply a premises and back up service to Hamilton Ross from 1994 to 1997 there is evidence tending to show that Mr Field-Corbett may have committed a criminal offence, namely: acting in breach of Section 7 of the Central Bank Act, 1971 (as amended), by aiding and abetting in the manner envisaged by Section 8 of the Accessories and Abettors Act, 1861 and/or Section 7(1) of the Criminal Law Act, 1997, thereby rendering himself responsible as a principal offender.*

***19.7 Possible breach of the Companies Acts***

*Mr Field-Corbett also permitted Hamilton Ross to operate out of his premises without ensuring that the appropriate notifications were made as required by Part XI of the Companies Act, 1963. In particular in the case of Mr Field-Corbett, the failure to comply with Section 355(b) of the Companies Act, 1963 (the display of the Company's name at its principal place of business in the State) was a matter for which he had responsibility as an agent of Hamilton Ross.”*

(Pages 220 and 221 of the Report)

## Appendix 2

### Text of Section 160(2) (as amended) of the Companies Act 1990

“(2) Where the court is satisfied in any proceedings or as a result of an application under this section that—

- (a) a person has been guilty, while a promoter, officer, auditor, receiver, liquidator or examiner of a company, of any fraud in relation to the company, its members or creditors; or
- (b) a person has been guilty, while a promoter, officer, auditor, receiver, liquidator or examiner of a company, of any breach of his duty as such promoter, officer, auditor, receiver, liquidator or examiner; or
- (c) a declaration has been granted under section 297A of the Principal Act (inserted by section 138 of this Act) in respect of a person; or
- (d) the conduct of any person as promoter, officer, auditor, receiver, liquidator or examiner of a company, makes him unfit to be concerned in the management of a company; or
- (e) in consequence of a report of inspectors appointed by the court or the Minister under the Companies Acts, the conduct of any person makes him unfit to be concerned in the management of a company; or
- (f) a person has been persistently in default in relation to the relevant requirements; or
- (g) a person has been guilty of 2 or more offences under section 202(10); or
- (h) a person was a director of a company at the time of the sending, after the commencement of section 42 of the Company Law Enforcement Act, 2001, of a letter under subsection (1) of section 12 of the Companies (Amendment) Act, 1982, to the company and the name of which, following the taking of the other steps under that section consequent on the sending of that letter, was struck off the register under subsection (3) of that section; or
- (i) a person is disqualified under the law of another state (whether pursuant to an order of a judge or a tribunal or otherwise) from being appointed or acting as a director or secretary of a body corporate or an undertaking and the court is satisfied that, if the conduct of person or the circumstances otherwise affecting him that gave rise to the said order being made against him had occurred or arisen in the State, it would have been proper to make a disqualification order otherwise under this subsection against him;

the court may, of its own motion, or as a result of the application, make a disqualification order against such a person for such period as it sees fit.”

### **Appendix 3**

#### **Extract from Text of Section 159 of the Companies Act 1990**

“ ‘Disqualification Order’ means—

an order under this Part that the person against whom the order is made shall not be appointed or act as an auditor, director or other officer, receiver, liquidator or examiner or be in any way, whether directly or indirectly, concerned or take part in the promotion, formation or management of any company, or any society registered under the Industrial and Provident Societies Acts, 1893 to 1978 ...”