

Affid. NO. 14/2011
D.H. U.S.

IN THE SUPREME COURT OF TONGA
CRIMINAL JURISDICTION
NUKU'ALOFA REGISTRY

Application Number /11

IN THE MATTER OF

An Application by the Attorney General under section 57(2) of the Money Laundering and Proceeds of Crimes Act 2000, as amended

AND IN THE MATTER

of TOP\$89,380.60 funds kept in the ANZ Bank account numbers 1607515 and 1711162

AND IN THE MATTER

of an application by the Attorney General for a restraining orders against proceeds of crime obtained by Trevor Jefferson, Hilary Jefferson and Paea Lavulavu, and currently held by Scott Michael Percy in the ANZ Bank account numbers 1607515 and 1711162

AFFIDAVIT OF KALISI KAFO'ATU TOHIFOLAU

I, Kalisi Kafo'atu Tohifolau, aged 34 years old, a police officer by occupation hereby make oath and say as follows:

- 1 I am a Detective Chief Inspector in the Tonga Police.
- 2 I am the Officer in Charge of the Transnational Crimes Unit (TCU) and Serious Crimes Unit (SCU).
- 3 I am familiar with matters pertaining to these proceedings and depose this is my affidavit from my personal knowledge as a result of information obtained in my official capacity unless otherwise stated, and the contents of which are true to the best of my knowledge and belief.
- 4 I am making this affidavit in support of an application by the Crown to the Supreme Court under section 57(2) of the Money Laundering and Proceeds of Crime Act 2000, as amended by the Money Laundering and Proceeds of Crime Act 2010, for a restraining order against funds currently held in the following ANZ Bank accounts:

(1) Account Name : Vava'u Pharmacy & Health Centre
Account Number 1607515

Proceeds of Crime Amount TOP\$9,380.60

(2) Account Name : Mr. Scott Michael Percy
Account Number 1711162
Proceeds of Crime Amount TOP\$80,000.00

- 5 This application has been instigated after Tonga Police received a complaint from Jonathan Traister and Kenneth and Sherry Stein, all of the United States, alleging that Trevor Jefferson fraudulently obtained from them funds under false pretences, and that such funds have now been used by the Trevor and Hilary Jefferson and Paea Lavulavu for their own personal purposes, rather than the original purpose the funds were granted for to Trevor Jefferson.

The Serious Offence: Obtaining money by false pretences, section 164, Criminal Offences Act

- 6 Based on the facts set out below, the Tonga Police intend to charge Trevor Jefferson, Hilary Jefferson and Paea Lavulavu with the following serious offences:

- (1) Trevor Jefferson

OBTAINING MONEY BY FALSE PRETENCES, contrary to section 164 of the Criminal Offences Act, in that Trevor Jefferson obtained from Jonathan Traister and Kenneth and Sherry Stein, a total amount of USD\$152,400, which equates to TOP\$282,854.97, on the false pretence that they were entering into a business partnership with Trevor Jefferson to set up the Biblical Christian Community in Vava'u.

- (2) Hilary Jefferson

ABETTING THE OBTAINING OF MONEY BY FALSE PRETENCES, contrary to sections 8 and 164 of the Criminal Offences Act, in that Hilary Jefferson assisted Trevor Jefferson to obtain from Jonathan Traister and Kenneth and Sherry Stein, a total amount of USD\$152,400, which equates to TOP\$282,854.97, on the false pretence that they were entering into a business partnership with Trevor Jefferson to set up the Biblical Christian Community in Vava'u, by withdrawing together with Paea Lavulavu TOP\$282,782 and using it for your own personal benefit with Trevor Jefferson and others.

- (3) Paea Lavulavu

ABETTING THE OBTAINING OF MONEY BY FALSE PRETENCES, contrary to sections 8 and 164 of the Criminal Offences Act, in that Paea Lavulavu assisted Trevor Jefferson to obtain from Jonathan Traister and Kenneth and Sherry Stein, a total amount of USD\$152,400, which equates to TOP\$282,854.97, on the false pretence that they were entering into a business partnership with Trevor Jefferson to set up the Biblical Christian Community in Vava'u, by withdrawing with Hilary Jefferson TOP\$282,782 and using it for your own personal benefit with Trevor Jefferson and others.

- 7 Obtaining by false pretence has the same penalty as theft, and in this case the maximum penalty is 7 years because the amount alleged to have been fraudulently obtained exceeds \$10,000. (Refer to Section 6, Law Revision (Miscellaneous Amendments) Act 2009)

Grounds for suspecting Trevor Jefferson, Hilary Jefferson and Paea Lavulavu

- 8 The grounds for suspecting that Trevor Jefferson, Hilary Jefferson and Paea Lavulavu committed the serious offence of obtaining money by false pretence, are as follows:

- (1) On 25 April 2010 a partnership agreement was entered into between Jonathan Traister, Trevor Jefferson and Kenneth Stein to establish a 'Biblical Christian Community' in Vava'u, including setting up related commercial businesses;
- (2) Under the partnership agreement the three partners agreed to inject capital into the partnership;
- (3) On 28 April 2010 the Westpac Bank of Tonga received an overseas telegraphic transfer from Jonathan Traister from the United States in the amount of USD88,400, which was divided and paid into three pre-existing accounts, as follows:

Account Name	Account number	Amount in TOP	Date of Deposit
Vava'u Virtual Takeaway	2000768248	\$57,121.83	29/04/10
Paradise Paintings & Pacific Paints	2000768313	\$54,805.67	29/04/10
Vava'u Shop	2000768305	\$58,858.94	03/05/10
TOTAL		\$170,786.44	

- (4) On 28 April 2010 the Westpac Bank of Tonga received an overseas telegraphic transfer from Kenneth Stein from the United States in the amount of USD64,000, which was divided and paid into two pre-existing accounts, as follows:

Account Name	Account number	Amount in TOP	Date of Deposit
Not By Bread Alone	2000768297	\$58,662.04	28/04/10
Vava'u Travel & Tours	2000769535	\$53,406.49	28/04/10
TOTAL		\$112,068.53	

- (5) The above five accounts were opened on the dates of 13 and 23 April 2010, and the signatories were only Hilary Jefferson and Paea Lavulavu.
- (6) The total amount of funds sent by both Jonathan Traister and Kenneth Stein amounted to TOP\$282,854.97.
- (7) On 19 May 2010, a Suspicious Transaction Report was received by the TCU from the Transaction Reporting Authority of the National Reserve Bank of Tonga in relation to the above overseas telegraphic transfers.

- (8) This was the first time the TCU became aware of this case and the transactions.
- (9) On 3 May 2010, Hilary Jefferson and Paea Lavulavu withdrew from the Paradise Paintings and Pacific Paints account, number 2000768313 an amount of TOP\$54,795 in cash at the Westpac Bank of Tonga branch in Neiafu, Vava'u. They also withdrew on the same day from Vava'u Virtual Takeaway account, number 2000768248 an amount of TOP\$1,200 in cash at the Westpac Bank of Tonga branch in Neiafu, Vava'u.
- (10) On 4 May 2010, Hilary Jefferson withdrew from the Vava'u Virtual takeaway account, number, 2000768248 an amount of TOP\$55,906 in cash at the Westpac Bank of Tonga branch in Neiafu, Vava'u. They also withdrew on the same day from Vava'u Shop account, number 2000768305 an amount of TOP\$1,000 in cash at the Westpac Bank of Tonga branch in Neiafu, Vava'u.
- (11) In early May 2010, Hilary Jefferson tried to withdraw TOP\$169,881, and convert into USD\$100 bills, but the Westpac Bank of Tonga advised her that they could not do that without approval from the National Reserve Bank of Tonga.
- (12) Hilary Jefferson then decided to withdraw the amount of TOP\$169,881 in TOP\$100 bills, but the Westpac Bank of Tonga staff informed her that she can only do that in their branch in Nuku'alofa.
- (13) On 18 May 2010 Hilary Jefferson withdrew from the three accounts of Not by Bread Alone (TOP\$58,647), Vava'u Shop (\$57,843) and Vava'u Travel (TOP\$53,391), a total amount of TOP\$169,881 in cash at the Westpac Bank of Tonga branch in Nuku'alofa, Tongatapu.
- (14) The total amount withdrawn by the Jeffersons amounted to TOP\$282,782.
- (15) The Police allege that all these withdrawals amounted to and completed the criminal offence of obtaining the funds from Jonathan Traister and Kenneth Stein by false pretences.
- (16) The balance remaining was TOP\$72.97, from the total amount of TOP\$282,854.97 that Jonathan Traister and Kenneth Stein had injected to the purported partnership to establish a Biblical Christian Community in Vava'u.
- (17) On 19 May 2010 Trevor Jefferson signed a tenancy agreement with Sione 'Otufanga Latu to occupy Sione's family tax allotment for 20 years for the amount of \$92,000, and the money was paid to Sione on the same day. The Police allege that this is part of the funds fraudulently obtained from Jonathan Traister and Kenneth Stein.
- (18) On 4 June 2010 Trevor Jefferson deposited TOP\$10,000 into his personal account held with the ANZ Bank, and subsequently transferred the same amount to his account in the United States. The Police allege that this is part of the funds fraudulently obtained from Jonathan Traister and Kenneth Stein.

- (19) On 5 June 2010 Hilary Jefferson deposited TOP\$140,000 in TOP\$100 bills, into her personal account held with the ANZ Bank, number 1574021. The Police allege that this is part of the funds fraudulently obtained from Jonathan Traister and Kenneth Stein.
- (20) On 6 June 2010 Trevor and Hilary Jefferson departed Tonga on flight FJ211 to Fiji.
- (21) On 8 July 2010 Hilary Jefferson instructed the ANZ Bank in Tonga to make two payments from her ANZ Bank account. One was in the amount of TOP\$7,507 to Paea Lavulavu, and the other was an amount of \$4007 to Sione 'Otufanga Latu. The Police allege that this is part of the funds fraudulently obtained from Jonathan Traister and Kenneth Stein.
- (22) Between July and October 2010 Hilary Jefferson attempted to withdraw the remaining balance in her personal account with the ANZ Bank, amounting to TOP\$128,473.00, after deduction of bank fees. This is the balance after the two payments totalling TOP\$11,514 paid to Paea Lavulavu and Sione 'Otufanga Latu, respectively, on 8 July 2010.
- (23) The ANZ Bank did not transfer the funds as requested by Hilary Jefferson as they had to obtain approval from the National Reserve Bank of Tonga.
- (24) On 7 September 2010, a complaint was received from Jonathan Traister of the United States, residing in Vava'u, alleging that Trevor and Hilary Jefferson had defrauded him and Kenneth Stein of USD\$152,400.00. This US dollar amount equates to the total of TOP\$282,854.97 deposited in the five Westpac Bank of Tonga account in April 2010, mentioned above.
- (25) On 27 September 2010, Search Warrant number 116/2010 was executed at the ANZ Bank and Westpac Bank of Tonga at their main branches in Nuku'alofa.
- (26) On 4 December 2010, a separate complaint was received by Tonga Police from Sherry Stein and Kenneth Stein.
- (27) TCU conducted an investigation by applying for search warrants and executing those search warrants at the Westpac Bank of Tonga and ANZ Bank, and also gathering witness statements from relevant persons.
- (28) On 26 November 2010 Hilary Jefferson instructed the ANZ Bank to transfer the balance of TOP\$128,450.00 in her ANZ Bank personal account to the ANZ Bank account of Scott M Percy and Treena Percy.
- (29) On 29 November 2010 the ANZ Bank carried out Hilary Jefferson's instructions and transferred TOP\$128,450.00 from Hilary Jefferson's account to Scott M Percy and Treena Percy's account, number 1607504.
- (30) On 30 November 2010 Scott Percy transferred TOP\$39,069.40 from his ANZ Bank account number 1607504 to SMP Consulting in the United States. The Police allege

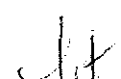
that this is part of the funds fraudulently obtained from Jonathan Traister and Kenneth Stein.

- (31) This left a remaining balance of TOP\$89,380.60 from the funds of TOP\$128,450 transferred by Hilary Jefferson to Scott Percy's ANZ Bank account.
- (32) On 30 November 2010 Scott Percy transferred TOP\$8,450.00 from his ANZ Bank account number 1607504 to the ANZ Bank account of Vava'u Pharmacy & Health Clinic number 1607515. The Police allege that this is part of the funds fraudulently obtained from Jonathan Traister and Kenneth Stein.
- (33) On 7 December 2010 Scott Percy transferred TOP\$40,000.00 from his ANZ Bank account number 160750 to the ANZ Bank account of Scott and Treena Percy ATF Benjamin Philip Percy, number 1620875. The Police allege that this is part of the funds fraudulently obtained from Jonathan Traister and Kenneth Stein.
- (34) On 8 December 2010 Scott Percy transferred TOP\$40,000.00 from his ANZ Bank account number 1607504 to the ANZ Bank account of Scott and Treena Percy ATF Joshua Michael Percy, number 1620886. The Police allege that this is part of the funds fraudulently obtained from Jonathan Traister and Kenneth Stein.
- (35) On 13 December 2010 Scott Percy transferred TOP\$12,000.00 from his ANZ Bank account number 1607504 to the ANZ Bank account number of Vava'u Pharmacy & Health Centre, number 1607515. The Police allege that this is part of the funds fraudulently obtained from Jonathan Traister and Kenneth Stein.
- (36) On 13 December 2010 Tonga Police met with Scott Percy and instructed him not to deal in any way with the funds he received from Hilary Jefferson amounting to TOP\$128,450.00.
- (37) On 15 December 2010 Scott Percy opened a new ANZ Bank account number 1711162.
- (38) On 15 December 2010 Scott Percy transferred TOP\$40,000 from the ANZ Bank account of Scott and Treena Percy ATF Benjamin Philip Percy number 1620875, to the new ANZ Bank account of Scott Percy number 1711162. The Police allege that this is part of the funds fraudulently obtained from Jonathan Traister and Kenneth Stein.
- (39) On 15 December 2010 Scott Percy transferred TOP\$40,000 from the ANZ Bank account of Scott and Treena Percy ATF Joshua Michael Percy number 1620886, to the new ANZ Bank account of Scott Percy number 1711162. The Police allege that this is part of the funds fraudulently obtained from Jonathan Traister and Kenneth Stein.
- (40) The new ANZ Bank account should therefore contain TOP\$80,000.00 that is part of the proceeds of crime, and the Vava'u Pharmacy and Health Centre ANZ Bank account should contain TOP\$9,380.60 of the proceeds of crime.



P.T.
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- 9 During the course of execution of the search warrants at the Westpac Bank of Tonga and ANZ Bank, bank statements, deposit slips, withdrawal slips, telegraphic transfer documents, account opening forms with supporting documents including copies of passports and business licenses, cheques and bank correspondences with account holders were obtained. All documents are summarized in the following order.
- 10 Annexed and marked with the letter **A** are business licenses of Vava'u Travel/Top Tours, Paradise Painting & Pacific Printing, Shop Vava'u and Not By Bread Alone, the details of the business registration are as follows:
- (1) Vava'u Travel/Top Tours was licensed under Paea F Lavulavu and 'Evalina Lavulavu (wife), dated 17 January 2007;
 - (2) Paradise Painting & Pacific Printing, Shop Vava'u, Not By Bread Alone are all licensed under sole proprietor, Paea F Lavulavu, dated 31 March 2010;
 - (3) Vava'u Virtual Takeaway licensed under sole proprietor, Paea F Lavulavu, dated 1 April 2010
- 11 Annexed and marked with the letter **B** are deposit slips, account opening forms, cheques, passports and bank statements dated from 13 April 2010, the details are as follows:
- (1) Four Business cheque accounts opened at the WBOT Vava'u with \$100 deposit for each account – Paradise Painting & Pacific Printing, Shop Vava'u, Not By Bread Alone and Vava'u Travel/Top Tours;
 - (2) Withdrawal of \$1,000 cash by Hilary Jefferson and Paea Lavulavu on 4 May 2010; and
 - (3) All accounts have two signatories: Hilary Jefferson and Paea 'I Auckland Fa'aoa.
- 12 Annexed and marked with the letter **C** are deposit slips, account opening form, cheques, passports and bank statements dated from 23 April 2010, the details are as follows:
- (1) Opened one Business cheque account at WBOT Vava'u with \$100 deposit, namely Vava'u Virtual Takeaway;
 - (2) Withdrawal of \$1,200 cash by Hilary Jefferson and Paea Lavulavu on 3 May 2010; and
 - (3) Signatories: Hilary Jefferson and Paea 'I Auckland Fa'aoa.
- 13 Annexed and marked with the letter **D** is a copy of the agreement dated 27 April 2010, the details are as follows:
- (1) Jonathan Traister, Kenneth Stein and Trevor Richard Jefferson entered a Limited Liability Partnership to operate as The Biblical Christian Community in Vava'u, Tonga; and
 - (2) The purpose of the partnership is to operate a Christian community, various community businesses and all that such entails with utmost purpose of serving and honouring the One true God of the Bible.



14 Annexed and marked with the letter **E** is a copy of the telegraphic transfer form dated 28 April 2010, the details are as follows:

(1) TOP\$112,086.53 was wired from Kenneth Stein and deposited into 2 accounts.

15 Annexed and marked with the letter **F** is a copy of the telegraphic transfer record dated 29 April 2010, the details are as follows:

(1) TOP\$111,927.50 was wired from Jonathan Traister and deposited into 2 accounts.

16 Annexed and marked with the letter **G** is a copy of a cheque and telegraphic transfer record dated 3 May 2010:

(1) Hilary Jefferson and Paea Lavulavu withdrew TOP\$54,795.00 from one account at Vava'u WBOT; and

(2) TOP\$58,858.94 was wired from Jonathan Traister and deposited into one account.

15 Annexed and marked with the letter **H** is the cheque withdrawal dated 4 May 2010, the details are as follows:

(1) Hilary Jefferson withdrew TOP\$55,906.00 from one account in Vava'u WBOT.

16 Annexed and marked with the letter **I** are the records of the bank correspondences with Hilary Jefferson dated from 5 to 17 May 2010, the details are as follows:

(1) Hilary Jefferson tried to withdraw \$169,881 and convert to USD\$100 bill;

(2) Westpac Bank of Tonga advised her that it requires approval of NRBT;

(3) Hilary Jefferson opted to withdraw in TOP\$100 notes, but was told it can only be done in Nuku'alofa.

17 Annexed and marked with the letter **J** are the cheque withdrawals dated 18 May 2010, the details are as follows:

(1) Trevor Jefferson withdrew three cheques for TOP\$169,881 in cash at the Westpac Bank of Tonga in Nuku'alofa, Tongatapu.

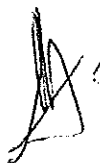
18 Annexed and marked with the letter **K** are the witness statements dated 1 October 2010 confirming denominations of the withdrawals made on the 18 May 2010, the details are as follows:

(1) Denominations as \$100/100,000, and \$50, \$20, \$10, \$1/\$69,881.

19 Annexed and marked with the letter **L** is a copy of the tenancy agreement between Sione 'Otufanga Latu dated 19 May 2010, the details are as follows:

(1) Trevor Jefferson signed a tenancy agreement with Sione 'Otufanga Latu leasing Sione's family tax allotment for 20 years for an amount of TOP\$92,000.00.

- 20 Annexed and marked with the letter **M** is the witness statement dated 13 September 2010 confirming payment, together with English translation, the details are as follows:
- (1) TOP\$92,000 cash was paid and deposited into Sione 'O. Latu's account on 19 May 2010.
- 21 Annexed and marked with the letter **N** is the bank statement for Trevor Richard Jefferson's account, deposit slip, Copy of US passport, Copy of outward ticket and telegraphic transfer form dated 4 Jun 2010, the details are as follows:
- (1) Trevor Jefferson deposited TOP\$10,000 cash into his ANZ account and subsequently transferred the same amount to his account in the United States.
- 22 Annexed and marked with the letter **O** is the bank statement for Hilary Anne Jefferson's account, deposit slip on 5 June 2010, Copy of US passport, Account opening form, the details are as follows:
- (1) Hilary Jefferson deposited TOP\$140,000 cash into her ANZ account number 1574021; and
 - (2) Deposit was made in denominations of \$100/140,000
- 23 Annexed and marked with the letter **P** is a copy of Trevor and Hilary Jefferson's and Jonathan Traister's travel movement, copy of indicating departure from Tonga on 6 June 2010, the details are as follows:
- (1) Trevor and Hilary Jefferson and kids left Tonga on flight FJ210 to Fiji; and
 - (2) Jonathan Traister arrived on same flight FJ211 from Fiji.
- 24 Annexed and marked with the letter **Q** is the authorization record dated 8 July 2010, the details are as follows:
- (1) TOP\$7,507.00 was withdrawn from Hilary Jefferson's ANZ account by Paea Lavulavu authorized by Hilary Jefferson; and
 - (2) TOP\$4,007.00 was withdrawn from Hilary Jefferson's ANZ account by Sione 'Otufanga Latu authorized by Hilary Jefferson.
- 25 Annexed and marked with the letter **R** is a copy of the correspondences from July – Oct 2010, the details are as follows:
- (1) Hilary Jefferson was trying to withdraw the remaining balance of her account TOP\$128,473.00, but she was advised that this was subject to approval by the National Reserve Bank of Tonga, and Tonga Police investigation.
- 25 Annexed and marked with the letter **S** is a copy of Jonathan Traister's complaint dated 7 September 2010 with relevant attachments as well as complaint from Sherry Stein dated 4 December 2010.



- 26 Annexed and marked with the letter **T** is a copy of the Jonathan Traister's bank statement in the United States verifying source of funds for the telegraphic transfer on 27 April 2010.
- 27 Annexed and marked with the letter **U** is search warrant number 116/2010 that was executed to retrieve all relevant documents plus search list.
- 28 Annexed and marked with the letter **V** are Suspicious Transaction Report from the Transaction Reporting Authority (TRA) dated 19 May 2010 in relation to the remittances from Jonathan Traister and Kenneth Stein and all correspondences made thereafter with the TRA staff.
- 29 Annexed and marked with the letter **W** is a witness statement from Paea Lavulavu confirming that four businesses known as Paradise Painting, Shop Vava'u, Not By Bread Alone and Vava'u Virtual Takeaway are sole proprietorships licensed but does not exist.
- 30 Annexed and marked with the letter **X** is the Suspicious Transaction report from the Transaction Reporting Authority outlining the transfer of funds (\$128,450.00) from Hilary Anne Jefferson's account to Scott M Percy and Treena Percy account number 1607504 and additional documents and correspondences.
- 31 Annexed and marked with the letter **Y** is search warrant number 152/2010 dated 17 December 2010 to obtain documents in relation to the further dispersing of funds in account number 1607504.
- 32 Annexed and marked with the letter **Z** is the bank statement for account number 1607504, account name Scott M Percy and Treena Percy as from 21 April 2008 to 13 December 2010.
- 33 Annexed and marked with the letter **Z1** are records of bank statements where further transfer of the TOP\$128,450.00 was made following the initial transfer from Anne Hilary Jefferson's account on 29 November 2010. TOP\$39,069.40 was transferred by Scott Percy to SMP Consulting Ltd on 30 November 2010 which is part of the proceeds of crime and other transfers within his accounts. Further transfers were:
- (1) TOP\$8,450.00, was transferred from 1607504 to account 1607515 on 30 November 2010;
 - (2) TOP\$40,000.00 was transferred from 1607504 to account 1620875 on 7 December 2010;
 - (3) TOP\$40,000.00 was transferred from 1607504 to account 1620886 on 8 December 2010; and
 - (4) TOP\$12,000.00 was transferred from 1607504 to account 1607515 on 13 December 2010.
- 34 A new account was opened under Scott Michael Percy on 15 December 2010, account number 1711162, following instructions from Tonga Police on 13 December 2010 that he is not to conduct any further transactions relation to the TOP\$128,450.00.



Description of Property

35 The property which the application for restraining order is sought are the funds kept in the following accounts kept at the ANZ Bank:

- | | | |
|-----|--------------------------|---------------------------------|
| (1) | Account Name : | Vava'u Pharmacy & Health Centre |
| | Account Number | 1607515 |
| | Proceeds of Crime Amount | TOP\$9,380.60 |
| (2) | Account Name : | Mr. Scott Michael Percy |
| | Account Number | 1711162 |
| | Proceeds of Crime Amount | TOP\$80,000 |

36 The proceeds of crime amount indicated for these two ANZ Bank accounts are portions of the TOP\$282,854.97 of funds fraudulently obtained by false pretence by Trevor Jefferson, and abetted by Hilary Jefferson and Paea Lavulavu, from Jonathan Traister and Kenneth Stein.

Name and Address of person in possession

37 The funds set out above is under the control and possession of Scott Michael Percy, currently residing in Vava'u, kept in his two accounts of the Vava'u Pharmacy & Health Centre, number 1607515, and account of Scott Michael Percy, number 1711162.

38 The accounts are held by the ANZ Bank of Nuku'alofa, Tonga, which has a branch in Neiafu, Vava'u.

Grounds for suspicion property is proceeds of crime

39 I believe that the funds kept in the two ANZ bank accounts are proceeds of Trevor Jefferson's crime of obtaining money by false pretence from Jonathan Traister and Kenneth Stein, based on the following facts:

- (1) In April 2010 Jonathan Traister and Kenneth Stein were deceived by Trevor Jefferson to form a partnership to establish the Biblical Christian Community in Vava'u, and they signed a partnership agreement to that effect;
- (2) The funds sent by Jonathan Traister and Kenneth Stein from the United States totalled USD152,400, equalling TOP282,854.97, and those funds were divided up and deposited into 5 accounts;
- (3) Those 5 accounts were accounts of five companies that only existed on paper;
- (4) The signatories to those five accounts were only Hilary Jefferson and Paea Lavulavu;
- (5) Within two weeks from the deposit of the TOP282,854.97 sent from the United States by Jonathan Traister and Kenneth Stein, the three suspects withdrew a total of TOP282,782.00, in cash, from the five accounts;

- (6) The records then show that the suspects spent the following portions of that TOP\$282,782.00:
- (a) TOP\$10,000 was sent by Trevor Jefferson to his account in the United States;
 - (b) TOP\$92,000 was paid to Sione 'Otufanga Latu for a tenancy agreement;
 - (c) TOP\$140,000 was deposited into Hilary Jefferson's ANZ Bank account;
 - (d) TOP\$7,507 was paid to Paea Lavulavu; and
 - (e) TOP\$4,007 was paid to Sione 'Otufanga Latu.

This left a balance of TOP\$128,473.00, after deduction of bank fees, in Hilary Jefferson's ANZ Bank account.

- (7) Hilary Jefferson then attempted to transfer an amount of TOP\$128,450.00 to her bank account in the United States;
- (8) When Hilary Jefferson knew that the transfer of the remaining balance could not be done, and that Tonga Police were investigating the complaint by Jonathan Traister and Kenneth Stein relating to the funds they sent from the United States to Trevor Jefferson, Hilary Jefferson then transferred TOP\$128,450 to Scott Michael Percy's account, in an attempt to have it transferred to the United States;
- (9) Scott Percy then made several transfers from his account, of funds that did not belong to him, presumably under instructions from Hilary Jefferson as follows:
- (1) TOP\$39,069.40 to a company in the United States;
 - (2) TOP\$8,450 to Vava'u Pharmacy and Health Centre account.
 - (3) TOP\$40,000 to one of the Percy family accounts;
 - (4) TOP\$40,000 to another of the Percy family accounts; and
 - (5) TOP\$12,000 to Vava'u Pharmacy and Health Centre account.

(10) After Tonga Police met with Scott Percy and instructed him not to deal with the money transferred to his account by Hilary Jefferson, he decided to open a new ANZ Bank account under his name, and transferred only TOP\$80,000 from the two Percy family accounts into that new ANZ Bank account, but not the TOP\$20,450 that was transferred to the Vava'u Pharmacy & Health Centre account.

(11) I therefore believe that \$80,000 in the ANZ Bank account number 1711162, and TOP\$9,380.60 in the ANZ Bank account number 1607515, is part of the proceeds of the crime committed by Trevor Jefferson, Hilary Jefferson and Paea Lavulavu, of obtaining TOP\$282,854.97 by false pretences from Jonathan Traister and Kenneth Stein.

40 Due to the urgency, the unquestionable criminal origins of the funds in the two ANZ bank account numbers 1711162 and 1607515, the large amounts in the accounts, and the risk that the funds may be sent overseas fairly easily, Tonga Police has decided to apply for restraining orders for the funds of those two accounts for the time being while investigation and prosecutions are completed.

41 Tonga Police will continue to investigate the whereabouts of the following funds:

- (1) TOP\$72.97 remaining balance from funds originally sent by Jonathan Traister and Kenneth Stein from the United States in April 2010;
- (2) TOP\$92,000 paid to Sione 'Otufanga Latu for the tenancy agreement;
- (3) TOP\$10,000 deposited into Trevor Jefferson's account and sent to the United States;
- (4) TOP\$7,507 paid to Paea Lavulavu from Hilary Jefferson's ANZ Bank account;
- (5) TOP\$4,007 paid to Sione 'Otufanga Latu from Hilary Jefferson's ANZ Bank account;
- (6) TOP\$39,069.40 paid to SMP Consulting in the United States by Scott Percy, from funds he received from Hilary Jefferson; and
- (7) TOP\$40,782 that is unaccounted for from the TOP\$282,854.97 that Jonathan Traister and Kenneth Stein were fraudulently deprived of by the suspects, Trevor Jefferson, Hilary Jefferson and Paea Lavulavu.

Benefit derived by the Suspects

42 I also believe that Trevor Jefferson, Hilary Jefferson and Paea Lavulavu benefitted directly from the funds they obtained by false pretences from Jonathan Traister and Kenneth Stein, as follows:

- (1) TOP\$282,782 was withdrawn by the suspects from accounts they exclusive controlled, which were supposed to be used for the partnership with Jonathan Traister and Kenneth Stein;
- (2) Trevor Jefferson obtained TOP\$10,000 sent to his bank account in the United States;
- (3) Paea Lavulavu received \$4,007, without reasonable explanation;
- (4) TOP\$39,069.40 was transferred by Scott Percy to a company in the United States, likely to be connected to Trevor and Hilary Jefferson;
- (5) Hilary Jefferson is in control of the remaining funds of \$89,380.60 that is still with Scott Percy.

43 I therefore apply to the Supreme Court to issue restraining orders as sought by the Crown so that the \$89,380.60 funds held by Scott Percy cannot be disposed of any further, until the investigation and prosecution of the suspects are completed.

44 The contents of this affidavit are true and correct to the best of my knowledge.

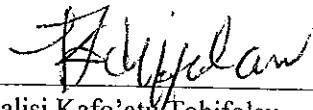


SWORN and SIGNED before me

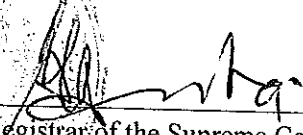
At Nuku'alofa

On this 12th day of January 2011

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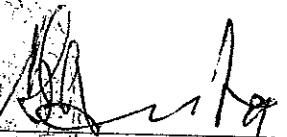


Kalisi Kafo'atu Tohifolau



Chief Registrar of the Supreme Court of Tonga

Read over by me in the English language which I have ascertained the deponent is familiar with.



Chief Registrar of the Supreme Court of Tonga

P.T
