

Public Prosecutor vs Jens Fred Sturzenegger | Statement of facts

INTRODUCTION

1. The accused is Jens Fred Sturzenegger, male / 42 years old, holding FIN No. G5172528Q (the “Accused”).
2. Falcon Private Bank Ltd (“Falcon Bank”) is a Swiss private bank with its head office situated in Zurich, Switzerland (“Head Office”). During the material time, Falcon Bank had a branch in Singapore (“FPBS”) which was approved as a merchant bank by the Monetary Authority of Singapore (“MAS”). Between August 2011 and 5 October 2016, the Accused was the Branch Manager of FPBS. As Branch Manager, the Accused was the most senior executive in FPBS approved by MAS and therefore responsible for ensuring sound management of the branch and its compliance with regulations, notices and directives issued by MAS, as well as any other relevant laws and regulations. Prior to his appointment as Branch Manager of FPBS, the Accused was the Head of Compliance of Falcon Bank and was based at Head Office.

BACKGROUND

3. On 31 January 2012, Eduardo Leemann (“Leemann”), the Group CEO of Falcon Bank, introduced the Accused to a purported “Eric Tan” via e-mail. The purported “Eric Tan” was using the e-mail account erickimloong.tan@gmail.com to communicate with Leemann and the Accused. On 2 February 2012, the Accused met the purported “Eric Tan” in Kuala Lumpur. The purpose of this meeting was for “Eric Tan” to introduce the Accused to a prospect who might be interested in opening an account with Falcon Bank.
4. When the Accused first met the purported “Eric Tan”, the latter introduced himself as “Eric Tan”. However, later that same day, while waiting for the prospect, the purported “Eric Tan” re-introduced himself as “Jho Low” and told the Accused that he uses the name “Eric Tan” on occasions for “security reasons”. It was at this moment, on 2 February 2012, that the Accused realised that the purported “Eric Tan” he was communicating with through erickimloong.tan@gmail.com (bearing the name Eric Tan Kim Loong on e-mail) and phone was in fact the said Jho Low (also known as Low Taek Jho). Investigations have independently confirmed the Accused’s account as communications on or around February 2012 between the Accused and the purported “Eric Tan” were in fact traced to a mobile line used by Jho Low.
5. In the months following the February 2012 meeting with Jho Low, the Accused sent several follow-up e-mails to Jho Low at erickimloong.tan@gmail.com, and updated Leeman of his contacts with the former. In the said e-mails and updates, the Accused would refer to Jho Low as “Mr Tan” as he thought “Eric Tan” was Low Taek Jho’s alias.
6. On or around October 2012, four US dollar denominated accounts were opened in the name of various corporate entities with FPBS. These four accounts, which details are set out below, were booked in Singapore but managed by a relationship manager based in Head Office. An individual by the name of Tan Kim Loong, and also known to the Accused as Eric Tan, was on record the beneficial owner of all four corporate entities:

- i. Account 8550297001
Westfield Group Services Inc
 - ii. Account 8550298001
Granton Property Holding Limited (the “**Granton Account**”)
 - iii. Account 8550299001
Tanore Finance Corp. (the “**Tanore Account**”)
 - iv. Account 8550300001
Midhurst Trading Limited (collectively, the “**Falcon Accounts**”)
7. According to the Accused, it was on or around October 2012 that he realised that “Eric Tan” was not merely an alias for Jho Low, but was in fact a real person. This realisation came about as FPBS had received and the Accused had seen a copy of the passport and curriculum vitae of the real Eric Tan Kim Loong as part of the account opening process. After the Falcon Accounts were opened, they remained inactive and dormant until March 2013.
8. On 14 March 2013, the Accused again met with Jho Low in Kuala Lumpur, wherein the latter introduced the Accused to the other two prospects (the “14 March 2013 meeting”). In a telephone conversation with a Head Office colleague on 19 March 2013 at 18:36, the Accused mentioned that the two prospects were introduced by the “person” whom he met earlier in 2012 (referring to the 2 February 2012 meeting) and “who had 4 accounts with us”. The Accused has confirmed that the “person” he was referring to was Jho Low and the 4 accounts referred to the Falcon Accounts.
9. In another telephone conversation with the same colleague on 20 March 2013 at 17:11, the Accused again referred to the 14 March 2013 meeting and made a direct and explicit reference to Jho Low, telling his colleague that it was Jho Low who he had already met in 2012 who introduced him to the two prospects. In light of the Accused’s contemporaneous reference to Jho Low having “4 accounts with us”, the Accused was fully aware that Eric Tan was merely a proxy for Jho Low insofar as the Falcon Accounts were concerned, and the said accounts were in substance Jho Low’s accounts.
10. On 19 March 2013, the Accused had a telephone conversation with Jho Low. The said conversation relates mainly to the 14 March 2013 meeting, but part of the conversation touched briefly on the subject of adding Jasmine Loo as a signatory over the Falcon Accounts. In a telephone conversation on or around 21 March 2013 with Leemann, the latter also mentioned that Jho Low was using the e-mail account erickimloong.tan@gmail.com.
11. Sometime on 18 March 2013, Falcon Bank received information from erickimloong.tan@gmail.com pertaining to an expected inflow of over US\$1 billion from three funds into the Falcon Accounts. These three funds are namely Cistenique Investment Fund, Enterprise Emerging Markets Fund and Devonshire Funds Limited. Instructions were also given from erickimloong.tan@gmail.com to Head Office and FPBS over the subsequent few days to remit the monies to be received to various parties (which e-mails the Accused was a recipient, copied on or received a forwarded copy).
12. As virtually all instructions and supporting documentation in relation to the Falcon Accounts were being given to Head Office and FPBS from the e-mail account erickimloong.tan@gmail.com, the Accused knew that Jho Low was the one orchestrating the transactions in the Falcon Accounts, and that Eric Tan was merely a proxy and signatory in name only for the Falcon Accounts.

13. Between 21 and 25 March 2013, the Tanore Account and Granton Account received the following inward remittances: (Chart 1)

CHART 1

Date	Sender	Receiver	Amount
21 Mar 2013	Devonshire Funds Limited	Tanore Account	US\$210 m
21 Mar 2013	Devonshire Funds Limited	Granton Account	US\$430 m
25 Mar 2013	Cistenique Investment Fund B.V.	Tanore Account	US\$375 m
25 Mar 2013	Enterprise Emerging Markets Fund B.V.	Tanore Account	US\$250 m
			US\$1,265 m

14. The Accused became aware of adverse news reports in relation to Jho Low and 1Malaysia Development Berhad (“1MDB”) sometime in early 2015. Some of these reports alleged that Jho Low was involved in 1MDB related transactions and had received substantial sums of monies from 1MDB under questionable circumstances. The Accused was also aware on or around July 2015, that there were several press reports alluding to improprieties in relation to the Tanore Account.

1st Charge – DAC 900187/2017

15. Between 21 March 2013 and 25 March 2013, the Tanore Account and Granton Account received inward remittances amounting to US\$1.265 billion. The Accused was extremely apprehensive of the inflow of such astronomical sums of monies and had doubts about the declared source of monies, namely, that the monies were allegedly capital raised by various funds and subsequently invested with “Eric Tan”. In conversations on 21 March 2013 with his colleagues, the Accused expressed concerns that the inflow of funds could be related to money laundering, and he also observed that Eric Tan’s declared net worth was only a small fraction of the US\$1.265 billion inflows.

The Accused knew that the inflows were clearly inconsistent with Eric Tan’s profile, which in any event was a sham profile as the Accused also knew that the latter was merely a proxy for Jho Low. Further, a compliance officer had raised concerns to the Accused on 21 March 2013 that the inflow of funds “may fall under the following type of STR: Transactions involving unidentified parties”. The Accused understood the acronym STR to mean “Suspicious Transaction Report”. In any event, the Accused knew that the Falcon Accounts were being used to facilitate a pass-through of the US\$1.265 billion, and such pass-through transactions with no apparent economic purpose ought to have raised a red flag.

16. On 25 March 2013 at 5:47 p.m., the Accused called Leemann who in turn called Mohamed Ahmed Badawy Al-Husseiny (“Al-Husseiny”), the then Chairman of Falcon Private Bank Limited, to complain about the transactions involving the Falcon Accounts. As the Accused was on an open line with Leemann, the Accused could hear what Leemann said to Al-Husseiny, part of which is as follows:¹

“But between you and me, Mohammed, the rest of the documentation, which our friend in Malaysia has delivered is absolutely ridiculous, between you and me. And, you know, we...we have already a bit of history, we have, we have two common cases, which we both know, in all the banks of assets had been blocked by by two of our mutual funds, because of compliance issue. This is exactly that kind of issue, which is gonna get everybody in trouble. This is done not professionally, unprepared,

amateurish at best. The documentation they're sending me is a joke, between you and me, Mohammed, it's a joke!

This is something, how can you send hundreds of millions of dollars with documentation, you know, nine million here, twenty million there, no signatures on the bill, it's kind of cut and paste, and, and... I mean it's ridiculous! You know, I'm, I'm, I'm, I'm so upset, as, as you, as, as you notice, that I'm just about to send the money back to stay sure. I mean, come on guys, get real! You know, so, so, I'm, I'm, I'm, you're now talking to Jho, and tell him "look, you either, within the next", you know, "six hours produce documentation, which my compliance people can live with, or we have a huge problem." And if we accept these funds, look, I'm, I'm not able to hold the horses back, because my compliance guys, they are going to pick up the phone and report it as a suspicious transaction. That's something we, nobody wants that to happen. But you can imagine where I am coming from? (pause with a clicking sound) What are these guys doing, Mohammed?? What are these guys doing?? I mean, this is, is, is this serious? Or, or do I have to be worried here?"

17. Later, with the Accused still on the line with Leemann, Leemann called Jho Low to similarly complain about the transactions involving the Falcon Accounts. Again, the Accused could hear the conversation between Leemann and Jho Low, part of which is as follows:²

...the documentation which we have received, Jho, it's a joke. It is not good and it, it, if you look at all that stuff...I looked at it, I mean with, with, with the best of, of whatever we want to see and with all that Eric and we can do, but let, you know, my compliance guys and even my general counsel, he said, "look, I mean, if an outside person looks at that and we has, we have in particularly hired an outside consultant law firm to look at it from the perspective, if, if anybody just looks at it remotely, this is going to be all over the place. Receiving banks, wiring, and, and, what I try to do here is protect Eric and anybody in the room because if, if any other bank just make "peep!" and this gets reported, we are going to be a h-...we are gonna have a huge problem. And the documentation is not good.

18. In both of the abovementioned calls, Leemann had highlighted to Al-Husseiny and Jho Low that the documents furnished in respect of some of the transactions involving the Falcon Accounts were deficient and further suggested that Falcon Bank may reject the incoming payments unless the deficiencies were rectified.
19. MAS Notice 1014 (issued on 2 July 2007 and last revised on 23 January 2013) ("Notice 1014" and annexed herein as "A") is a direction issued pursuant to Section 27B(1) of the Monetary Authority of Singapore Act (Cap. 186) ("MAS Act"). Paragraph 11.2 of the Notice 1014 stipulates that a merchant bank shall submit reports on suspicious transactions (including attempted transactions) to the Suspicious Transactions Reporting Office, Commercial Affairs Department of the Singapore Police Force, and extend a copy to the MAS for information. Paragraph 2 of the Guidelines to MAS Notice 1014 expressly stipulates that "the ultimate responsibility and accountability for ensuring the merchant bank's compliance with anti-money laundering and countering the financing of terrorism laws, regulations and guidelines rest with the merchant bank, its board of directors and senior management".
20. As the most senior executive of FPBS, the accused's knowledge and suspicion is attributable to FPBS. Within FPBS, the Accused also had a strong say as to whether to

file a suspicious transaction report. Notwithstanding the abovementioned suspicions and red flags in relation to the inflows of US\$1.265 billion into the Tanore Account and Granton Account between 21 and 25 March 2013, FPBS did not file any suspicious transaction report on the aforesaid inflow. The non-filing by FPBS was due to the Accused's decision and consent.

21. Accordingly, FPBS had failed to comply with a direction issued to it under Section 27B(1) of the MAS Act, namely, paragraph 11.2 of MAS Notice 1014 (issued on 2 July 2007 and last revised on 23 January 2013) and had committed an offence under Section 27B(2) of the MAS Act, and which offence and failure was caused by the Accused's consent. The Accused has thereby committed an offence under Section 28B(1) read with Section 27B(2) of the MAS Act.

3rd Charge – DAC 900189/2017

22. On or around 21 March 2013, instructions were given from erickimloong.tan@gmail.com to FPBS to effect a transfer of US\$378 million from the Granton Account to Dragon Market Limited. A loan agreement between Granton Property Holding Limited and Dragon Market Limited dated 12 March 2013 was provided as supporting documentation, which claimed that the monies were earmarked for a property development project in New York, USA. Apart from his concerns as set out in paragraph 15 above and his doubts about the said agreement, Dragon Market Limited was also an unidentified party insofar as the Accused and FPBS were concerned as they did not know who was behind the company and who its beneficial owner was. Further, the Accused knew that the documentation provided was deficient as it did not touch on the end usage of funds by Dragon Market Limited. In short, FPBS processed a significant pass-through payment of US\$378 million without knowing who would be receiving the funds, and without any further supporting documentation to support the end usage of the funds.
23. The above information resulted in the Accused having reasonable grounds to suspect that the payment of US\$378 million from the Granton Account to Dragon Market Limited in whole directly represented proceeds of an act which may constitute criminal conduct, which information on which the Accused's suspicion was based came to his attention in the course of his employment with FPBS, namely, as Branch Manager of FPBS. The Accused failed to disclose the said information to a Suspicious Transaction Reporting Officer, and he has thereby committed an offence punishable under Section 39(1)(a) read with Section 39(2) of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A).
24. Investigations have confirmed that Jho Low is the beneficial owner of Dragon Market Limited's account with Coutts & Co Ltd ("DML Account"). Investigations further revealed that between 25 March 2013 and 6 November 2013, a total sum of US\$518.5 million was transferred from the Granton Account to the DML Account. In 2013, US\$476.3 million was transferred from the DML Account to Dragon Dynasty Limited's bank account with BSI Bank Ltd ("DDL Account"), whose beneficial owner was also Jho Low. From the DDL Account, the monies were then further layered and subsequently used for various purposes. Annexed and marked "B" is a flow chart showing some of the significant movement of funds originating from Dragon Market Limited, and bank statements evidencing the said movements.

5th Charge – DAC 900191/2017

25. On 21 March 2013, instructions were given from erickimloong.tan@gmail.com to FPBS to effect a transfer of US\$30 million from the Granton Account to Densmore Investment Limited (“Densmore”). A consultancy agreement dated 20 March 2013 was also provided as a supporting document (the “Consultancy Agreement”). The Accused knew that the Consultancy Agreement was highly suspicious and unsatisfactory, as it was almost identical to another consultancy agreement given to FPBS in support of another payment.
26. In a telephone conversation between Leemann and Jho Low on 25 March 2013, which the Accused was aware of as he was listening in from Singapore on the sidelines, the Accused knew that Leemann told Jho Low in relation to the Consultancy Agreement that he will be telling Eric Tan to “don’t produce copy paste, it cannot be all the consultancy agreements look one and the same, the same wording and the same everything, he needs to have a bit more professionalism behind it”. After Leemann’s tip off to Jho Low in relation to the unsatisfactory Consultancy Agreement, FPBS did not proceed with the payment to Densmore.
27. The above information resulted in the Accused having reasonable grounds to suspect that the US\$30 million in the Granton Account which was earmarked for payment to Densmore is intended to be used in connection with an act which may constitute criminal conduct, which information on which the Accused’s suspicion was based came to his attention in the course of his employment with FPBS, namely, as Branch Manager of FPBS. The Accused failed to disclose the said information to a Suspicious Transaction Reporting Officer, and he has thereby committed an offence punishable under Section 39(1)(a) read with Section 39(2) of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A).

8th Charge – DAC 900194/2017

28. On 17 February 2016, as part of FPBS’s reply to MAS in the course of a bank inspection conducted by MAS for, inter alia, breach of money laundering controls and in relation to 1MDB-related fund flows, the Accused informed one Karen Lim (“MAS Officer”), an employee of MAS and a public servant vide Section 16 of the MAS Act, in writing that in relation to the transactions made in March 2013 through the Falcon Accounts, FPBS had asked the beneficial owner of the Falcon Accounts for supporting documentation and that the beneficial owner had delivered the supporting documentation to FPBS. The Accused knew that the aforesaid information provided to the MAS Officer was false as FPBS had in fact sought for and were provided with supporting documentation by Jho Low through the e-mail account erickimloong.tan@gmail.com, and not the beneficial owner on record, Eric Tan.
29. The Accused provided the said false information intending thereby to cause the MAS Officer to omit to probe for Jho Low’s involvement in the Falcon Accounts which the MAS Officer ought not omit if the true state of facts respecting which such information was given were known to her, and the Accused has thereby committed an offence punishable under Section 182 of the Penal Code (Cap 224).
30. On 11 October 2016, MAS imposed financial penalties amounting to S\$4.3 million on FPBS for various breaches of MAS Notice 1014. MAS also announced that it would be withdrawing FPBS’s status as a merchant bank in Singapore. At that point in time, the extent of Jho Low’s involvement in the Falcon Accounts had not been uncovered, and the Accused’s false statement to the MAS Officer had misdirected MAS’s bank

inspectors from investigating Jho Low's involvement in relation to the Falcon Accounts. The Accused's action had materially obstructed the bank inspection conducted by MAS and the true state of facts, if known to MAS, would have added to the latter's adverse inspection findings on FPBS.

13th Charge – DAC 900196/2017

31. Sometime in September 2016, after having conducted an extensive screening of hundreds of thousands of e-mails and documents pertaining to FPBS, the CAD uncovered some indirect evidence suggesting that Jho Low may have some degree of involvement in relation to the Falcon Accounts.
32. On 23 September 2016, the Accused was re-interviewed by the CAD. During the course of the interview, the Accused chose to make several statements to the CAD at different points of the said interview which he knew were plainly false, namely:

Statement	Proof of falsehood
That he had met Tan Kim Loong Eric on 14 March 2013.	This statement was false as the Accused knew he had in fact met Jho Low and not Tan Kim Loong Eric on 14 March 2013.
That he did not know Jho Low in person and only came to know about him through press articles in the summer of 2015.	This statement was false as between 2012 and 2013, the Accused had met Jho Low on at least two occasions and had communicated (via phone conversations and SMS-es) with him on several other occasions.
That prior to media reports in 2015, he did not know that Tan Kim Loong Eric had any links with Jho Low.	This statement was false as the Accused knew in March 2013 that Tan Kim Loong Eric was a proxy for Jho Low insofar as the Falcon Accounts were concerned.
That Jho Low had no dealings with FPBS.	This statement was false as the Accused knew that Jho Low was sending instructions to FPBS using the e-mail account erickimloong.tan@gmail.com in relation to the Falcon Accounts.
That he did not know that Jho Low was aware of the transactions executed in Eric Tan's group of accounts.	This statement was false as the Accused knew in March 2013 that the transactions in Eric Tan's group of accounts, namely the Falcon Accounts, were being orchestrated by Jho Low.

33. Some 4 days later, on 27 September 2016, the Accused was again interviewed by the CAD. As with all interviews with the CAD, at the start of the interview, a warning was administered to the Accused, informing him, inter alia, that the CAD was conducting an investigation under Section 47 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act, and that he is bound to state truly the facts and circumstances with which he is acquainted with. The Accused knew that the said investigation relates to a case of money laundering involving the Falcon Accounts, and that the Falcon Accounts were being investigated for 1MDB-related fund flows.
34. On this occasion, the Accused again maintained the deceitful façade that he had no contact with Jho Low by telling Oh Yong Yang (the “CAD Officer”), a Commercial Affairs Officer of the Singapore Police Force and a public servant vide Section 21(g) of the Penal Code (Cap. 224), that “I confirm that I have not met Jho Low” when he had in fact met Jho Low on at least two previous occasions. This statement was reduced into writing, and the Accused was given the opportunity to read through the said statement in its entirety. At the end of the interview, the Accused was also offered the opportunity to make any amendments he wished to make. No amendments were made to the above false statement by the Accused, and he instead chose to confirm in writing the false statement to be true and correct.
35. The Accused made the false statement intending to cause the CAD Officer to omit to probe for connections between himself and Jho Low, which the CAD Officer ought not to omit if the true state of facts respecting which such information was given was known to him. The Accused has thereby committed an offence punishable under Section 182 of the Penal Code (Cap. 224). The Accused’s false statement also had the potential impact of misdirecting investigations away from Jho Low towards Eric Tan in relation to the Falcon Accounts, and had the effect of obstructing investigations.
36. Some 8 days thereafter, on 5 October 2016, in the course of another interview with the CAD, the Accused again maintained the façade by intentionally providing a false clarification to the CAD that he became aware of Jho Low from press articles in March 2015 instead of May/June 2015. As articulated above, this further clarification is similarly untrue given that the Accused already knew Jho Low since February 2012 and had met him in person.
37. To the best of the Accused’s knowledge and belief, he was the only person within FPBS who knew of Jho Low’s involvement in the Falcon Accounts and links to Eric Tan. If the Accused’s belief is correct, the potential impact of the Accused’s false statements in relation to his contacts with Jho Low would be significant, as there would be no other persons based in Singapore who could assist the CAD in this aspect of the investigations.
38. On 5 October 2016, investigators uncovered irrefutable objective evidence of contacts between the Accused and Jho Low, and the Accused was placed under arrest that same day. Subsequently, on 12 October 2016, the Accused admitted to the CAD that he had in fact met with Jho Low before during the course of another interview.

16th Charge – DAC 900202/2017

39. When the Accused was interviewed by the CAD on 12 October 2016, despite admitting to having met Jho Low before, the Accused continued to furnish falsehoods to the CAD Officer. As with before, at the start of the interview, a warning was administered to the Accused, informing him, inter alia, that the CAD was conducting an investigation under Section 47 of the Corruption, Drug Trafficking and Other

Serious Crimes (Confiscation of Benefits) Act, and that he is bound to state truly the facts and circumstances with which he is acquainted with. The Accused knew that the said investigation relates to a case of money laundering involving the Falcon Accounts, and that the Falcon Accounts were being investigated for 1MDB-related fund flows.

40. The Accused knew that erickimloong.tan@gmail.com was central to the investigation, as instructions pertaining to the Falcon Accounts were given to FPBS and Head Office from this said e-mail account. During the course of the interview, the Accused was again shown an e-mail sent from erickimloong.tan@gmail.com that was signed off by “Jho” (hereby annexed and marked “C”). When questioned, he feigned ignorance and also told the CAD Officer that he did not know whether Jho Low was using the e-mail account erickimloong.tan@gmail.com, which statement the Accused knew was false as he knew since February 2012 that Jho Low was using the said e-mail account, and he had in fact been reminded by Leemann on 21 March 2013 that Jho Low was using the said e-mail account.
41. The Accused made the false statement intending to cause the CAD Officer to omit to probe for Jho Low’s involvement in the Falcon Accounts which the CAD Officer ought not to omit if the true state of facts respecting which such information was given was known to him. The Accused has thereby committed an offence punishable under Section 182 of the Penal Code (Cap. 224). The Accused’s false statement also had the potential impact of misdirecting investigations away from Jho Low towards Eric Tan in relation to the Falcon Accounts, and had the effect of obstructing investigations.
42. To the best of the Accused’s knowledge and belief, he was the only person within FPBS who knew of Jho Low using the e-mail account erickimloong.tan@gmail.com to communicate with and give instructions to FPBS and Falcon Head Office. If the Accused’s belief is correct, the potential impact of the Accused’s false statements would be significant, as there would be no other persons based in Singapore who could assist the CAD on this aspect of the investigations. Further, the Accused had committed the offence on 12 October 2016 whilst on station bail.
43. During the course of another interview on 14 October 2016, the Accused subsequently admitted to the CAD that Leemann had explained in a telephone conversation in March 2013 that Jho Low was using the e-mail address erickimloong.tan@gmail.com and that Eric Tan was using another e-mail address.
44. Considerable investigative resources would have been saved by the CAD if the Accused had been upfront right from the outset about his contacts with Jho Low and the involvement of the latter in the Falcon Accounts.

ATTORNEY-GENERAL’S CHAMBERS
SINGAPORE
10 January 2017