

**IN THE SUPREME COURT OF GRENADA AND
THE WEST INDIES ASSOCIATED STATES
HIGH COURT OF JUSTICE
(CIVIL)**

GRENADA

SUIT NO. GDAHCV2003/0255

IN THE MATTER OF BANK CROZIER LIMITED

AND

IN THE MATTER OF THE COMPANIES ACT, NO: 35 OF 1994

AND

IN THE MATTER OF THE OFFSHORE BANKING ACT NO: 39 OF 1996

AND

IN THE MATTER OF THE INTERNATIONAL COMPANIES ACT CAP. 152

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AFFIDAVIT OF GARVEY LOUISON

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I GARVEY LOUISON, FCCA of True Blue in the parish of Saint George and State of Grenada make oath and say as follows:

- 1) That I am the Court appointed Liquidator of Bank Crozier Limited (“the Bank”) having been appointed to that office by Order of Madam Justice Charmaine Pemberton dated 24th July 2003. A copy of the Winding Up Order is exhibited hereto and marked “**GL1**”

- 2) That this Affidavit is in response to the Affidavits of the following persons/entities sworn in support of their application by summons filed 10th February 2004 to have me removed as Liquidator of the Bank: -
- a) The affidavit of Mark A. Caron sworn on the 17th October 2003 and filed herein on the 10th February 2004.
 - b) The Affidavit of Keith D. Dent on the behalf of Acorn Capital Limited sworn on 8th December 2003 and filed herein on the 10th February 2004.
 - c) The Affidavit of Keith D. Dent on behalf of Burbank Capital Limited sworn on 8th December 2003 and filed herein on 10th February 2004.
 - d) The Joint Affidavit of Keith D. Dent and Marilenn G. Dent sworn on 8th December 2003 and filed herein on 10th February 2004.
 - e) The Affidavit of Oystein Tofte sworn on 14th November 2003 and filed herein on 10th February 2004.

- f) The Affidavit of Jagdish C. Sood Sworn on 17th November 2003 and filed herein on 10th February 2004.

- g) The Affidavit of Derek Trone sworn on 14th November 2003 and filed herein on the 10th February 2004.

- h) The Affidavit of Stephen Wren on behalf of Varian USA LLC sworn sometime in November of 2003 and filed herein on 10th February 2004.

- i) The Affidavit of Henric Karlsson on the behalf of Eye Passion Limited sworn on the 17th November 2003 and filed herein on 10th February 2004.

- j) The Affidavit of Thomas Gustafsson sworn on 24th November 2003 and filed herein on 10th February 2004.

- k) The Affidavit of Jan Tidlund sworn on 26th November 2003 and filed herein on 10th February 2004.

- l) The Affidavit of Eileen Kilgallon on behalf of Eshu International Inc. sworn on 2nd December 2003 and filed herein on 10th February 2004.

- m) The Affidavit of Rohn S. Wallace sworn on behalf of Jaxson Holdings Corp. sworn on 17th October 2003 and filed herein on 10th February 2004.

- n) The affidavit of Melissa A Eaton sworn on 14th November 2003 and filed herein on 10th February 2004.

- o) The Affidavit of Tor Arvid Myreng sworn on 10th December 2003 and filed herein on 10th February 2004.

- p) The Affidavit of Susanne Blomberg sworn on 17th November 2003 and filed herein on 10th February 2004.

- q) The Affidavit of Eileen Kilgallon sworn on 2nd December 2003 and filed herein on 20th February 2004.

- r) The Affidavit of Todd A Roetken sworn on 22nd January 2004 and filed herein on 10th February 2004.

- s) The Joint Affidavit of Mark A Caron and Rohn S Wallace on behalf of Discount Meds Online.com Inc. sworn on 17th October 2003 and filed herein on 10th February 2004.
 - t) The Affidavit of Scott Wilson on behalf of Packard Financial, Milano Factoring, RnD Ventures, Scott Wilson personally, Triton Software, Gold Ventures Inc., LD Holdings LLC, Longhorn Trading, New Century Services, Professional IT Services, Carlson Jefferies LLC, Kern River Trading, Western Rope Inc., Corsair Internet Solutions, Highlander Private Capital, Mycash Now. Com LLC, National Health Care Manuf., Washington Global Hold, First Glassgow Trust Comp., Washington Federal Trade, Association for Int'l Business, Eagle Star Trading LLC and Euro Capital Financial Brokers sworn on 14th January 2004 and filed herein on 10th February 2004.
 - u) The Affidavit of Kenneth Azar on behalf of Gold Coast Ventures Inc. sworn on 18th November 2003 and filed on 18th February 2004.
- 3) That in respect of the affidavits herein numbered 2(b), 2(c), 2(d), 2(g), 2(h), and 2(u) I have never received any proof of debt from the Deponent and I observe from those affidavits and their exhibits, that those Deponents have not provided evidence before this Honorable Court as to whether or not the proofs/claims were actually sent to me as liquidator of the Bank.
- 4) That in respect of the affidavits listed herein as 2(t), I have rejected Scott Wilson's claim that he is a depositor and a Director/ Beneficial Owner of the companies on whose behalf he purportedly made his affidavit because he has to

date provided me with no proof that he is in fact the beneficial owner or a Director of those companies. In respect of all the claims submitted by Scott Wilson, the Notary Certificate on those claims are illegible and I accordingly advised Scott Wilson to forward me legible notarized copies or the original notarized copies or the original notarized documents, however to date, I have had no response from him. Exhibited hereto and marked “GL2” is a true copy of my rejection of Scott Wilson’s claim and my request to him to submit properly notarized claims.

- 5) That Scott Wilson was on or about February 26th 2003 appointed secretary/treasurer of the Bank and was also appointed to the Board of Directors. Mr. Wilson was purportedly given a Power of Attorney from the Bank’s Chief Executive Officer, Mr. Peter Johansson for the purpose of administering the day-to-day management of the Bank. Exhibited hereto and marked "GL3" is a copy of the letter from Mr. Peter Johansson to Ms. Cora Felix the Office Manager of the Bank verifying these matters.
- 6) That in due course I intend to summon both Mr. Scott Wilson and Mr. Peter Johansson to be examined before this Honourable Court to obtain from them particulars of the whereabouts of some of the Bank’s assets which have disappeared and also to obtain from them further particulars of the numerous loans made to both directors and shareholders of the Bank from funds belonging to the Bank’s legitimate creditors.
- 7) That in respect of two of the companies which Scott Wilson purports to represent namely Professional IT Services and MDK Associates, I have received by letter a proof of debt signed by persons other than Scott Wilson and I am currently investigating their claims on behalf of both companies. Copies of both letters are exhibited hereto and marked “GL 4 and “GL5” respectively.

- 8) That in respect of the affidavit listed as 2(i) herein, I state that EyePassion Limited is not a creditor of the Bank. When the Bank was put into liquidation on the 24th July 2003, certain funds of EyePassion Limited were held in transit in a Swedish Postgirot account in Sweden and had not yet been credited to EyePassion 's account at the Bank and as such never formed part of the Bank's assets. I therefore advised the bank in Sweden to reverse the transaction, which they did. EyePassion Limited was therefore refunded the full sum now being claimed. A copy of the correspondence between Eye Passion's Solicitor Michael J .Sylvester Esq, and myself confirming this is collectively exhibited hereto and marked **"GL 6."**
- 9) That in respect of the allegation contained in the supporting affidavits that I have not summoned a meeting of creditors and contributors within 21 days of Winding Up Order, I state that I have been advised by my solicitors and verily believe that the law in respect of convening meetings of creditors and contributories is contained in Section 399 (2) of the Companies Act 1994(hereinafter "the Act") and under that section it is not mandatory for the Liquidator to summon general meetings of creditors and contributories. I am further advised by my Solicitors and verily believe that Rule 115 of the Companies (Winding Up) Rules 1909 (hereinafter "the Rules") refer to a meeting of creditors and contributories under section 152 of the Companies (Consolidation) Act 1908 which mandates that the Liquidator convene a meeting of creditors and contributories within 21 days but which Statutory Provision does not apply to Grenada. I am further advised by my Solicitors and verily believe, that in any event, the total value of the creditors' claims herein, minus the Eye Passion claim and the Scott Wilson claims is insufficient to force a meeting of creditors under section 399(2) of the Act.

- 10) That in respect of the allegation contained in the supporting affidavits that I have not filed with the Registrar a certified list of all proofs of debt received by me, I state that I am advised by my Solicitors and verily believe that the relevant statutory provision in proofs of debt is section 465 of the Act. Under section 465 of the Act, the applicable procedure in respect of proof of debt is that set out in section 36 of the Bankruptcy Act Cap.27 of the 1990 Revised Laws of Grenada, which said procedure is set out in the second schedule to the Bankruptcy Act and which procedure I have followed at all times. The procedure under the Bankruptcy Act does not at all require proof of debt to be filed with the Registrar of the High Court. I am advised by my Solicitors and verily believe that as a result of the express statutory provision hereinabove referred to Rule 110 of the Rules has no applicability to proof of debt in these liquidation proceedings.

- 11) That in respect of the allegation contained in the supporting affidavits that I have not kept books of record, I state categorically that this allegation is patently false and that I have since the date of my appointment on July 24th 2003, kept meticulous records of the performance of my functions as court appointed liquidator of the Bank, pursuant to section 400 of the Act.

- 12) That in respect of the allegation contained in the supporting affidavits that I have failed to respond to communication from the Applicants, I depose that in respect of the Applicants from whom I have received communication ,I have at all times responded to their queries and /or directed them to the relevant information which have addressed their concerns. I have also sent letters to as many creditors as I could address their concerns. I have also sent letters to as many creditors as I could identified and I exhibit hereto mark as “GL7”, “GL8” and “GL9” the standard form of the first, second and third letter sent to all creditors. Also exhibited hereto and marked “GL10” is a response sent to Eva Corn (number 42

on Applicants' Summons but no affidavit served), this would be in similar form to my response sent to all creditors from whom I have received claims.

- 13) That In respect of the allegation contained in the supporting affidavits that I have sold a motorcar by private treaty, I admit that I effected the sale in question, which I am empowered to do under Paragraph 10 of the Winding-up Order and section 398 (2) (a) of the Act. The motorcar in question, a reconditioned 1994 Toyota corolla Registration No. PL597 was purchased by the Bank approximately three years ago for EC\$ 20,000.00 and was fully depreciated by the time I was appointed liquidator. Prior to selling the motorcar, I procured an appraisal of its value from Browne's Auto Service which said valuation is dated 7th August 2003 and puts the value of the motorcar at EC\$8,000.00. Notwithstanding this value , through exhaustive efforts on the part of my agents and myself, I was able to sell the motorcar for the sum of USD\$ 4,500.00, which is in excess of the appraised value. Contrary to what is asserted by the Applicants, the information deposed to herein concerning the motorcar is also contained in my first report as liquidator filed with this Honorable Court on 4th September 2003. Exhibited hereto and marked "GL11" is a true copy of the said appraisal.

- 14) That is respect of the allegation contained in the supporting affidavits that I have failed to disclose specific assets of the Bank, I categorically state that this patently false and untrue since all the assets of the Bank of which I am presently aware have been stated in both my preliminary report on 4th September 2003 and in my second report filed on 27th February 2004.

- 15) That in respect of the allegation contained in the supporting affidavits that my reports to creditors have been simplistic and lacking in detail, I absolutely deny this and I professional manner. I further state that no creditor has to date informed me that he has difficulty understanding any aspect of my reports. In any event, I have at all times, put myself at the disposal of the creditors in terms of answering any queries or concerns which they may have.

- 16) That uncovering and tracing all the assets of the Bank and the identity of all of its creditors has proven to be a difficult and tedious process since a large amount of the Bank's deposits are internationally business companies whose registered agent and registered office was the Bank itself and most of those records were removed prior to my appointment as liquidator.

- 17) That for the avoidance of doubt, I state that all progress in the liquidation has been adequately addressed in the two reports to the court which I have filed to date and which are matters of public record. Additionally, I have directed enquiring creditors to the website bankcroziergd.com, which is updated regularly and which contains all progress in the liquidation to date, including both reports which I have laid before this Honorable Court in complete obedience to the Winding Up Order.

- 18) That I deny the allegation in the supporting affidavits that I have refusing and/or failed to co-operated with Mr.Daryl sands of PricewaterhouseCoopers the former Controller of the Bank. Mr. Sands has consistently sought to obstruct me in the performance of my duties liquidator of the Bank. From the outset, Mr. Sands presented himself to the Court as competent and qualified individual to be appointed as liquidator however. Madam Justice Charmaine Pemberton on

making the Winding Up Order, however, agreed with the submission of Counsel for the Petitioner that Mr. Sands could not be appointed liquidator since he had a conflict interest. The reason for this was that Mr. Sands in Claim GDAHCV2003/0220 was sued by Carla Bella limited a depositor with Bank and Claim No 2003/0228 by Grenville-Winslow Phillips, Controller of Bank Crozier International Limited. Exhibited hereto and collectively marked “GL12” are copies of the Statement of Claims in both High Court actions. I am advised by my Solicitors and verily believe that Mr. David Holokuff, one of the persons proposed as my replacement herein, having acted as agent for Mr. Sands while Mr. Sands was controller may well be in a similar position of conflict. Exhibited hereto and marked “GL13” is a true copy of an Order made in GDAHCV2003/228, Grenville-Winslow Phillips, Controller of Bank Crozier International Limited v. Daryl Sands if PricewaterhouseCoopers, Controller of Bank Crozier Limited which shows Mr. Holokuff as appearing in those proceedings as agent of Mr. Sands.

- 19) That this rejection of Mr. Sands proved insufficient to stop him in his relentless pursuit of obstructing me in the performance of my duties as court appointed liquidator. A case in point concerns certain funds in the name of the Bank at RBTT Grenada Limited, which said funds, was by order of Mr. Justice Kenneth Benjamin dated 22nd August 2003 paid over to me as liquidator. Exhibited ere to marked “GL14” Is a copy of the Order.

- 20) That by Notice of Application dated and filed 30th July 2003 Mr. Daryl while still purporting to be Controller of the Bank applied to the Court for certain directions, the effect of which would have effectively put the liquidation of the Bank on hold. I was advised by counsel and verily believe that those directions were prejudicial to the general body of creditors and I was accordingly duty bound to defend that

application. Exhibited hereto and marked “**GL15**” is a copy of the Notice of Application.

- 21) That on 17th November 2003 Madam Justice Charmaine Pemberton in a written judgment dismissed Mr. Sand’s application and ordered him to pay me costs to be taxed in default of agreement. Exhibited hereto and marked “**GL16**” is a copy of the Judgment. On 28th January 2004 I filed with this Honourable Court a Bill of Cost in the sum of EC\$40,578.80 which is to be taxed by the Registrar and I am still awaiting a date for taxation. Exhibited hereto and marked “**GL17**” is a copy of the Bill of Cost.

- 22) I am advised by my Solicitors and I verily believe that they have been in contact with the Registrar of the High Court who advised them that the Chief Registrar would soon be personally attending to all taxation matters including the taxation of my said Bill of Cost filed herein on 28th January 2004.

- 23) That apart from the proceedings referred to at paragraph 20 above, the former Controller Mr. Daryl Sands by Notice of Application filed on 7th October 2003 (and amended on 24th October 2003) sought from this Honourable Court a reversal of the Order of Mr. Justice Kenneth Benjamin dated the 22nd August 2003 allowing me access to the Bank’s funds in my capacity as liquidator. This application was on 29th October 2003 dismissed by Madam Justice Charmaine Pemberton with an order that Mr. Sands pay me \$5,000.00 in cost for his frivolous action, in which, the learned trial Judge found that Mr. Sands did not even have the standing in law to commence. Exhibited hereto and marked “**GL18**” is a copy of the Order. Save in one instance, all legal proceeding commenced against the Bank subsequent to my appointment, have all been at the

instigation of Daryl Sands of PricewaterhouseCoopers as the former Controller of the Bank.

- 24) That in respect to the EC\$200,000.00 cheque made payable to myself as liquidator of the Bank I state that this cheque represented a transfer from one bank account in the name of the liquidator at RBTT Bank Grenada Limited. This amount **never** represented fees paid to me for the performance of my duties as court appointed liquidator. The cheque was simply a transfer of funds from one of the liquidator's accounts to another.

- 25) That in a prior application in these liquidation proceeding I have explained under oath that the EC\$200,000.00 was never paid to me personally in my beneficial capacity. I exhibit hereto as Exhibit "**GL19**" an affidavit sworn by me on 19th August 2003 which at paragraph thereto address the issue of the EC\$200,000.00.

- 26) That in the performance of my duties as liquidator I have been billing at the rate of US\$200.00 per hour however, I have imposed a sealing in respect of my billing so that in any one month my billing will never exceed US\$10,000.00.

- 27) That by way of comparison and for the information of all creditors I state that my fees in the liquidation have been considerably less that the fees charged the Bank by Mr. Daryl Sands and his associates at PricewaterhouseCoopers when he acted as Controller. For example, for the period July 21st 2002 – 31st August 2002, Mr. Sands billed the Bank fees and disbursements totaling US\$56, 275.39. For the period of November 16th 2002 – 31st December 2002, Mr. Sands and his associates at PricewaterhouseCoopers billed the Bank fees and disbursements

totaling US\$26,204.05. I have also in my possession copies of both bank drafts in the sum of US\$61,855.52 and US\$65,357.32 made payable to PricewaterhouseCoopers while the Bank was still under Controllershship. I don not know what those payments represent. Exhibited hereto and collectively marked “GL20” are copies of those invoices and the bank drafts.

- 28) That the Controller of the Bank was appointed on 31st July 2002 and remained Controller up until I was appointed 24th July 2003.

- 29) That upon assuming the office of the liquidator, the two invoices referred to at Paragraph 27 above were the only two that I could find among the ban’s records and my attempts to obtain details of the additional billing by Mr. Sands and his associates at PricewaterhouseCoopers for the entire period of his Controllershship has to date not been successful.

- 30) That I make this affidavit truthfully and to demonstrate to this Honourable Court in the conduct of this liquidation, I have acted at all times with due diligence, honesty and integrity in the interest of the general body of creditors.

SWORN to at my Office in the City of St. George’s in the State of Grenada this 25th day of March 2004.