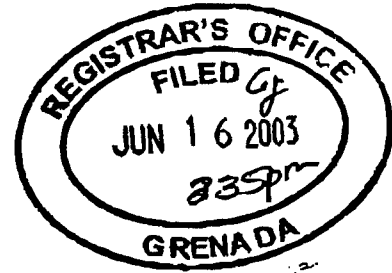


SUPREME COURT OF GRENADA  
THE WEST INDIES ASSOCIATED STATES  
HIGH COURT OF JUSTICE



GRENADA

SUIT NO. GDAHCV2003/0259

BETWEEN:

IN THE MATTER OF BANK CROZIER LTD.

AND

IN THE MATTER OF THE OFFSHORE BANKING ACT, 1996, NO. 39

AND

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

AND

IN THE MATTER OF THE INTERNATIONAL COMPANIES ACT, CAP. 152

PETITION

THE HUMBLE PETITION of Anthony Boatswain of Mt. Airy, St. Paul's, St. George's Grenada, SHOWETH as follows:

1. The Petitioner was duly appointed by His Excellency the Governor General in accordance with the Constitution of Grenada to hold the portfolio of Finance in the Government of Grenada and, as such, is the Minister of Finance.
2. On 2<sup>nd</sup> October, 1997 Bank Crozier Ltd. (hereinafter called the "Bank"), was incorporated as an international business company in Grenada under the International Companies Act, Cap. 152 of the Revised Laws of Grenada, 1990. A copy of the Bank's Certificate of Incorporation is now produced and shown to me marked Exhibit AB - 1.
3. The Bank's registered office is situated at Grenada Offshore Management Limited, Grand Anse, St. George's, Grenada.
4. According to the Bank's Memorandum and Articles of Association, the Bank's principal objects were to carry on in and from within Grenada and throughout the world, the business of offshore banking in all its varied forms and to transact business incidental thereto or otherwise usual in connection with the business of banking or dealing in money or securities for money.

5. According to the Bank's Memorandum and Articles of Association filed with the Registrar's office the Bank's authorized share capital upon incorporation was US\$1,000,000 divided into 100,000 shares issued to the bearer and a further 100,000 registered shares.

6. On 6<sup>th</sup> October, 1997 the Bank received a Class 1 Offshore Banking Licence (hereinafter called the "Licence") pursuant to Grenada's Offshore Banking Act, 1996, No. 39 (hereinafter called the "Act"). A copy of the Bank's licence is now produced and shown to me marked Exhibit AB-2.
7. The Petitioner, having been informed of certain irregularities with respect to the Bank, exercised the powers vested in the Minister of Finance under Section 20 (1) of the Act to appoint Mr. Daryl Sands of PricewaterhouseCoopers as Controller of the affairs of the Bank on 31<sup>st</sup> July, 2002. A copy of the notice appointing the Controller is now shown to me marked Exhibit AB-3. The appointment was lawfully extended under the Act, on a continuous basis since the expiration of the initial appointment.
8. Pursuant to Section 20 (7) of the Act, the Controller subsequently reported his findings on the Bank's state of affairs to The Petitioner and The Petitioner's appointee, the Grenada International Financial Services Authority (hereinafter called "GIFSA").
9. The Petitioner provided the Bank written notice of his intention to revoke it's Licence, on 25<sup>th</sup> April, 2003 specifying the following grounds for the proposed revocation, namely that the Bank:
  1. is carrying on business in a manner detrimental to the public interest and the interests of its depositors;
  2. has contravened provisions of the Act specifically sections 16 and 26; and
  3. is carrying on offshore banking business in such manner which will affect Grenada adversely as an offshore banking centre."

A copy of the notice of intention to revoke the Bank's licence is now produced and shown to me marked Exhibit AB-4.

10. Based on the Controller's findings and recommendations as contained in his report, the Petitioner has formed the opinion that it is appropriate that the Bank be liquidated and its affairs wound-up. This is based on the following grounds:
  - (1) **The Petitioner is of the firm belief that the Bank is in a negative financial situation and therefore insolvent and incapable of meeting its debts and obligations as they become due:**
    - (1) At the time of the Controller's initial appointment, the Bank's accounting records indicated that it had assets of \$26.3 million and liabilities of \$20.7 million therefore suggesting the Bank was solvent. Management of the Bank asserted that it was able to meet all of its liabilities. Although at this time the Controller had some concerns

about certain valuations within the accounts it was his view that the investors interest were best served by the continued operation of the Bank while a formal assessment of the value of the Bank's assets was being undertaken.

- (2) Between August 2002 and April 2003 the Controller carried out an assessment of the Bank's assets. In October 2002 the Controller wrote informing the Bank of his valuation of the Bank's Assets and requested further documentation from the Bank so that his valuations could reflect the true position of the Bank's asset base.
- (3) The Controller provided the Bank with a valuation of the assets which differed from the book value because the Controller discounted those assets that were unverifiable due to a lack of supporting documentation.
- (4) The Bank did not accept the Controller's assessment but agreed to provide additional security in the form of letters of credit. The Bank also agreed to obtain further security for outstanding loans to comply with the conditions of the Act and agreed to submit a plan to rectify outstanding regulatory issues. To date, the Bank has not fulfilled any of its commitments.
- (5) The security for the loans as promised has not materialized and although there has been considerable correspondence and negotiations between the Controller and the Bank's principals none of the proposals were acceptable to the Controller.
- (6) On or about the 24<sup>th</sup> April 2003, the Petitioner became aware that a company known as Add Trust AB in which the Bank had an investment of USD\$3.3 million had been placed into Administration in Sweden. Further, that the administration process rendered the investment virtually valueless.
- (7) As a result of this information, the existing concerns with regard to the Bank's valuation of certain of its assets and the outstanding regulatory concerns, the Petitioner took the decision to issue the Bank with a notice of intention to revoke its Offshore Banking License.
- (8) The Controller in his report of 24<sup>th</sup> April 2003 completed a revised valuation of the total Assets and Liabilities of the Bank. The revised valuation of the Assets and Liabilities was due to a number of factors including:
  - (a) The fact that the Bank received no payments apart from the first installment payment from investment bonds, which had matured in September 2002.
  - (b) The Bank had not provided adequate documentation or support in respect of the value of one of its significant assets, which is currently tied up in litigation in Canada.
  - (c) In spite of the Bank's several promises, security for unsecured loans was not provided.

Based on the revised valuation, the Controller reported that the Bank's assets now

totalled USD\$9,075 million and liabilities amounted to USD\$22 million. As a result of the Controller's valuation, the Controller reported to the Petitioner that he was of the opinion that the Bank is insolvent as its liabilities exceed its assets.

(9) Given the Controller's assessment of the Bank assets it is the belief of the Petitioner that the Bank is insolvent and has insufficient assets to meet its liabilities.

**(ii) The Petitioner is also of the firm belief the Bank has been carrying on business in a manner detrimental to the interest of its depositors and creditors and, therefore, it is in their mutual interest that the bank be wound-up;**

(1) From the date of the Controller's appointment until March 2003, the Controller was able to maintain the status quo in respect of the overall position of the depositors as a group. However since March 2003 the Controller reported that there has been an effort by the principals of the Bank to migrate the corporate business and accounts away from the Bank to Bank Crozier International Limited (BCIL) as evidenced by a policy of BCIL directing depositors away from Bank Crozier to ABN AMBRO where BCIL has established a correspondent Bank account.

(2) One of the Controller's concerns was that the Bank had made a number of loans to its principal and companies controlled by him to a value of approximately USD\$3 million without having obtained viable supporting security and documentation. The Controller's request that this situation be rectified has not been complied with.

(3) In addition there were a number of unsecured loans in the form of corporate credit facilities in excess of the USD\$37,500 limitation for unsecured loans required under Sec. 26 (c) of the Act. These unsecured loans were secured only by way of personal guarantee, which do not constitute security within the meaning of the Act.

(4) Given the report of the Controller it is the belief of the Petitioner that the Bank has been and intends to carry on business in a manner detrimental to the interests of its depositors and creditors and, therefore it is in their mutual interest that the Bank be wound up.

**(iii) The Petitioner is of the firm belief that, considering all of the circumstances, the Bank has been carrying on offshore banking business in such a manner, which will affect Grenada adversely as an offshore, banking centre.**

(1) Given all of the above circumstances it is the Petitioner's belief that the Bank has been carrying on offshore banking business in such a manner which will adversely affect Grenada as an offshore banking centre and accordingly steps should be taken to wind up the Bank.

(2) Based on the foregoing, the Petitioner is satisfied that it is just and equitable and in the interests of the Bank's depositors and creditors that the Bank be wound up by this Honourable Court.


- (3) The petitioner is satisfied that Daryl Sands is well able to act as liquidator and provisional liquidator of the Bank and a copy of his consent to Act and his CV is now produced and shown to me marked Exhibit AB - 5.

**THE PETITIONER THEREFORE HUMBLY PRAYS**

1. That the application to wind-up the Bank be granted;
2. That Daryl Sands be appointed as provisional liquidator and liquidator for the Bank; and
3. That Daryl Sands have all the powers mentioned in section 398 of the Companies Act no 35 of 1994; and
4. That the costs of this petition be included in the costs of the liquidation, and
5. That such other consequential, related or necessary Orders be made as the Court may determine to be just and equitable.

And the Petitioner will ever pray.

Dated the *16<sup>th</sup>* day of June, 2003

  
.....  
**HON. ANTHONY BOATSWAIN**  
**MINISTER OF FINANCE**

**PETITIONER**

It is intended to serve this petition on the following

Bank Crozier Ltd of Grenada Offshore Management Ltd Grand Anse, St. George's Grenada.  
The Controller of Bank Crozier of Grand Anse, St George's Grenada

This Petition is filed by Attorney General's Chambers, York House, Church Street, St. George's