

# **BANK CROZIER LIMITED (IN LIQUIDATION)**

## **1. Introduction**

1.1. On 24<sup>th</sup> July 2003 I, Garvey Louison (FCCA), was appointed by the High Court in Grenada by order of Madam Justice Pemberton to be the liquidator of Bank Crozier Limited (the Bank).

1.2. I am a Fellow of the Association of Chartered Certified Accountants (FCCA) of the United Kingdom, a former Director of Audit, former Accountant General, and former permanent Secretary, Finance and Director General within the public Service of Grenada.

1.3. Pursuant to paragraph 16 of the Liquidation Order, this is my eighth report to the Honorable Court.

1.4. The objectives of my appointment were to:

- Determine the potentially realizable assets of the Bank;
- Assess the number and value of legitimate creditor's claims;
- Assess the extent to which creditors legitimate claims can be met;
- Assess the extent to progress made in accomplishing the tasks set out in the Liquidation order; and
- Form a view regarding the likely future direction of the liquidation.

## **2. Scope of Work**

- 2.1. The scope of my work was severely limited by the ferocious manner in which Daryl Sands of PricewaterhouseCoopers had persecuted his claim to possess priority interest over the funds of the bank. This matter has resulted in the freezing of a substantial portion of the assets of the bank thus preventing a distribution and delaying the progression towards closing this liquidation.
- 2.2. In November 2007 the Court of Appeal consisting of the Honorable Mr. Denys Barrow SC, the Honorable Mr. Hugh A. Rawlins and the Honorable Mrs. Dancia Penn-Sallah QC, dismissed the appeal by Daryl Sands and PricewaterhouseCoopers (PWC) with prescribed cost to the liquidator to be agreed within twenty one (21) days or to be assessed, and discharged the Conservation Order of the Court of 20 February 2006 (see appendix 1). This means that PWC would have lost its case twice of the High Court and now also at the Court of Appeal.
- 2.3. On 12 March 2008 the Organization Eastern Caribbean States (OECS) Court of Appeal dismissed the application by Daryl Sands and PricewaterhouseCoopers for the granting of leave to appeal against its judgment of November 2007.
- 2.4. Documents presented to me in 2009 as part of an affidavit of the Minister of Finance of Grenada, the Honorable Nazim Burke, included the engagement letter entered into by Daryl Sands of PricewaterhouseCoopers and Honorable Anthony Boatswain, Minister of Finance of Grenada in 2002.
- 2.5. This engagement letter and the attachment clearly show that the Government of Grenada had granted an indemnity to Daryl Sands and PricewaterhouseCoopers. Indeed, had Daryl Sands and PwC presented this indemnity during the six (6) years of Court proceedings, it would have been doubtful that a hearing on this subject matter would have been granted by the Court. (see appendix II)

### **3. Cash at Bank**

3.1. The cash at bank is USD \$2,545,882 which is overstated by USD \$1.75 million representing an amount withdrawn from the liquidation account at RBTT Bank without authorization. The circumstances surrounding this withdrawal are best set out in my affidavit before the Court (See appendix III).

3.2. Without repeating the matters raised in my affidavit and also outlined in my seventh report to the honorable Court, and bearing in mind my lack of progress on this matter since that report, I am obliged to state for the record the following.

- The funds were moved without my authority;
- The funds dissipated to the extent that its recall may be futile; and
- My current effort is to secure restitution from RBTT Bank.

3.3. The matter remains before the Court. After several attempts at securing a date for the hearing we were allotted the 21<sup>st</sup> July 2009. Counsel for RBTT Mr. Dickon Mitchell indicated he would be unavailable to attend Court on that day and was allowed an adjournment. However, I was unaware of this development and attend Court and indeed Mr. Mitchell was present at the Court on that day.

3.4. My attorneys are of the view, which I share, that Mr. Mitchell lied to the Court regarding his availability and is abusing his relationship with the Court in an attempt to frustrate our legal rights.

3.5. It is my hope that it will be heard early in the new Court session, commencing September 2009 and that the issues will be ventilated and dispatch within a short period.

3.6. The successful implementation of my agreement with Carla Bella remains outstanding and by extension would have to be the subject of further negotiations.

#### **4. Stourbridge - Exchange Bank and Trust Ltd**

4.1. The receiver of Exchange Bank and Trust Inc., KPMG, filed his report on 3<sup>rd</sup> September 2008 (see appendix IV). The attachment of the receiver's report to this report is for cease of reference and without prejudice. The same can be obtained from KPMG website.

4.2. In this report the receiver summarizes all the actions to date and provides an update on the appeals process and presents the account balances identified within the scope of his engagement.

4.3. In addition, by way of an Order delivered in the Supreme Court of British Columbia on 3<sup>rd</sup> December 2008, Madam Justice Brown has ordered and declared the following (See appendix V).

4.4. The Securities & Exchange Commission (SEC) has prevailed in this matter and has undertaken to distribute the funds to investors in the United States who have suffered losses as a result of Exchange Bank & Trust Inc. activities. Against that background even the British Columbia Securities Commission (BCSC) elected to forego its claims.

4.5. Given this undertaking by the SEC the Stourbridge claim has settled at USD \$40,000.

## 5. Bear Stearns

5.1. Up to the second quarter of 2009, Bear Stearns continued to trade as part of J P Morgan Chase & Co. During that period the level of non-performing loans continued to increase substantially forcing the organization to maintain strong coverage ratios and increasing loan reserves both of which would impact negatively on profitability.

5.2. J P Morgan Chase & Co. analyses the future prospect as follows:-

- Possible volatile trading;
- A risky and uncertain environment;
- Continued home lending losses;
- Market levels would impact on management and performance fees;
- Private equity will be marked down based on current market levels;
- Lower levels of gain in investment portfolios are likely.

5.3. According to J P Morgan Chase, retail banking continues to show solid underlined growth. It is also expected that there will be good underlined growth in commercial banking with continued growth in market share and reserves. However, in the event the economy weakens, future additional reserving actions may be required.

5.4. The latest available analysis of our account at Bear Stearns Venture Partnership shows the following:

5.5. Table A - Partner's Capital account analysis

	US\$
Beginning capital account	223,523.00
Capital contribution during the year	-----
Current year increase (decrease)	(172,150.00)

Withdrawal and distributions	-----
Ending Capital Account	<b>51,373.00</b>

5.6. This indicates there was a loss in value on the investment during the period. I have had no analysis from Bear Stearns to indicate the future prospects of this fund.

## **6. Liabilities**

6.1. As at 30 June 2006 forty-four (44) claims have been accepted with a value of US \$3,532,309.29. Only the creditors who have fully complied with the requirement for submitting a claim have been recognized as legitimate creditors of the Bank.

6.2. The amount does not take into account the settlement with Carla Bella for US \$700,000.

## **7. Matters before the Court**

7.1. I continued to pursue before the High Court in Grenada in the matter, Bank Crozier Limited against RBTT Bank Grenada Limited for the restoration of US \$1.75 million to our account at RBTT Bank Grenada Limited. I expect this matter to be heard early September 2009 when the Court resumes operations.

## **8. Collections and Disbursements**

8.1. Table B below shows the classifications of collections for the period July 2008 to June 2009 and disbursements for the period commencing July 2003 to June 2009.

8.2. Table B – Collections and Disbursements

Receipts (July 2008 to June 2009)	US \$	US\$
Bank Interest Received		24,440.91
<i>Total Receipts</i>		<b><u>24,440.91</u></b>
<b>Payment-To-Date</b>		
Agent's Fees	225,109.68	
Liquidator Fees	737,309.60	
Legal Fees	1,291,717.91	
Publication Expenses	30,714.91	
Expenses Claims	171,498.42	
Office Expenses	142,336.74	
Repairs and Maintenance	123,113.85	
Bank Charges	5,636.41	
Loan	326,913.98	
Petty Cash	13,645.39	
Utilities	228,064.47	
Security	284,951.68	
Outstanding Payments	365,421.09	
Staff Salaries	32,473.53	

Other Expenses	152,371.37	
<i>Total Expenses</i>		<b>4,131,279.02</b>

8.3. Loan account with Louison Consulting is USD \$ 548,572.33.

## **9. Future direction of the Liquidation**

9.1. At present there are a number of outstanding matters which are pivotal to the future direction and course of the liquidation and which will eventually determine the availability of funds in the event of distribution.

9.2. All efforts were made to contact all creditors and keep them informed as to the proceeding and progress of the liquidation. I am in constant contact with all creditors. The deadline for the submission of the claims was 31 January 2006.

9.3. Creditors are constantly updated by way of letters and in addition, any new information arising from time to time on [www.louisonconsulting.com](http://www.louisonconsulting.com) in timely manner.

9.4. At this point my work has not progressed sufficiently to allow me to:

- Determine the potentially realizable assets of the Bank;
- Assess the extent to which creditor legitimate Claim can be met; and
- Form a view regarding the likely future direction of the liquidation.