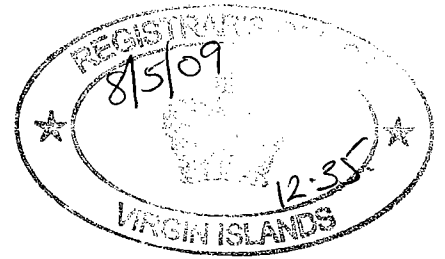


**IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
VIRGIN ISLANDS
Claim No. 2009/163**



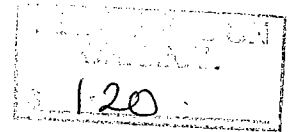
IN THE MATTER OF THE BVI BUSINESS COMPANIES ACT, 2004

- and -

IN THE MATTER OF THE INSOLVENCY ACT, 2003

- and -

IN THE MATTER OF KINGATE EURO FUND, LTD.



Between:-

KINGATE EURO FUND, LTD.

Applicant

ORDER FOR THE APPOINTMENT OF JOINT PROVISIONAL LIQUIDATORS

BEFORE: His Lordship Justice Edward Bannister, QC

DATED: 8 May 2009

ENTERED: 8 May 2009

UPON THE APPLICATION filed by Kingate Euro Fund, Ltd. ("the Company") for the appointment of Joint Provisional Liquidators of the Company

AND UPON HEARING Mr Stephen Moverley Smith QC, Counsel for the Company

AND UPON THE APPLICANT by its Counsel giving the undertakings set out in Schedule 1 to this Order

AND UPON READING the Affidavits and documentary evidence filed herein and set out in Schedule 2 to this Order

IT IS ORDERED THAT:

1. Mr William Tacon and Mr Richard Fogerty, both of Zolfo Cooper (“the Joint Provisional Liquidators”) licensed insolvency practitioners, be appointed the Joint Provisional Liquidators of the Company pursuant to section 170(1) of the Insolvency Act 2003 (“the Act”) until the determination of the Originating Application herein.

2. The Joint Provisional Liquidators shall have all the following rights and powers pursuant to section 171(2) of the Act to the extent necessary to maintain the value of the assets owned or managed by the Company and shall be entitled to exercise such powers without the sanction of the Court:
 - (a) Power to continue and/or take any appropriate step in the Bermudian Proceedings as defined in Schedule 3 hereof and defend and/or take any appropriate step in the US Proceedings as defined in Schedule 4 hereof. In the event that any proceedings are commenced against the Company, the Joint Provisional Liquidators shall report that to the Court and if appropriate seek its necessary directions as soon as possible.

 - (b) Power to do all acts and execute, in the name and on behalf of the Company, any deeds, receipts or other document.


 - (c) Power to call meetings of creditors or members for
 - (i) the purpose of informing creditors or members concerning the progress of or matters arising in the provisional liquidation;

 - (ii) the purpose of ascertaining the views of creditors or members on any matter arising in the provisional liquidation; or


 - (iii) such other purpose connected with the provisional liquidation as the Joint Provisional Liquidators considers fit.

- (d) Power to appoint a solicitor, accountant or other professionally qualified person to assist them in the performance of his duties.
 - (e) Power to appoint an agent to do any business that the Joint Provisional Liquidators are unable to do themselves, or which can be more conveniently done by an agent.
3. Such functions and powers of the Joint Provisional Liquidators may be performed or exercised by either of them.
 4. The Joint Provisional Liquidators and the Company are not required to provide any security or deposit for their appointment.
 5. The Joint Provisional Liquidators shall file a preliminary report not less than 3 business days before the hearing of the application for appointment of liquidators on their conduct of the provisional liquidation.
 6. The Company or the Joint Provisional Liquidators have liberty to apply to the Court in relation to any matter arising from this Order.
 7. Any person affected by this Order may apply to vary or discharge it provided that not less than 48 hours' prior written notice is given of any such application to the Joint Provisional Liquidators and the Company.
 8. The costs of and occasioned by this application shall be an expense of the liquidation and shall be paid out of the assets of the Company.

BY THE COURT



Registrar



Schedule 1

Undertakings given to the Court by the Company

- (1) Anyone notified of this Order will be given a copy of it by the Company on request.

- (2) If this order ceases to have effect the Company will immediately take all reasonable steps to inform in writing anyone to whom he has given notice of this order, or who he has reasonable grounds for supposing may act upon this order, that it has ceased to have effect.

Schedule 2

Affidavits filed with the Court

Affidavit of Christopher Wetherhill

Schedule 3

Bermudian Proceedings

Action No. 23 of 2009 in the Supreme Court of Bermuda

Civil Jurisdiction Commercial Division

Between (1) Kingate Global Fund, Ltd (2) Kingate Euro Fund, Ltd, Plaintiffs and (3)
The Bank of Bermuda Limited (HSBC), Defendant

Schedule 4

US Proceedings

Adversary Proceeding No.09-01161-brl

In the United States Bankruptcy Court

Southern District of New York between Irving H . Picard against (1) Kingate Global Fund, Ltd (2) Kingate Euro Fund, Ltd and (3) The Bank of Bermuda Limited

