

22 May 2009

P.O. Box 4571  
2<sup>nd</sup> Floor, Palm Grove House  
Wickhams Cay, Road Town  
Tortola  
British Virgin Islands VG1110  
t: +1 284 494 9600  
f: +1 284 494 9601  
www.zolfocooper.com

**TO THE CREDITORS**

Dear Creditors

**Kingate Euro Fund, Ltd. - In Provisional Liquidation**

I write to notify you that on 8 May 2009, Richard E. F. Fogerty and I were appointed Joint Provisional Liquidators (“JPLs”) of Kingate Euro Fund (the “Fund”), by an Order of the Eastern Caribbean Supreme Court in the High Court of Justice British Virgin Islands (“BVI Court”), pursuant to section 170 of the British Virgin Islands Insolvency Act, 2003. A copy of the Order is attached, together with a copy of a press release relating to the appointment.

The Order was made by the BVI Court pursuant to two applications by the Fund:

1. An Originating Application for the appointment of Mr. Fogerty and me as Joint Liquidators of the Fund; and
2. An Ordinary Application for the appointment of Mr. Fogerty and me as JPLs of the Fund, pending the determination of the Fund’s Originating Application.

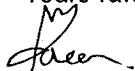
The Originating Application for the appointment of Liquidators to the Fund is scheduled to be heard by the BVI Court on 4 June 2009.

The powers of the JPLs are set out in the Order by which we were appointed. In summary, we have all of the rights and powers of Liquidators, to the extent necessary to maintain the value of the assets owned or managed by the Fund. The role of the JPLs is to identify, manage, preserve and secure the assets of the Fund, pending the hearing of the Originating Application.

At this stage, I do not wish creditors to submit details of their claims against the Fund. This will be a matter for the duly appointed Joint Liquidators to deal with should they be appointed by the BVI Court on 4 June 2009.

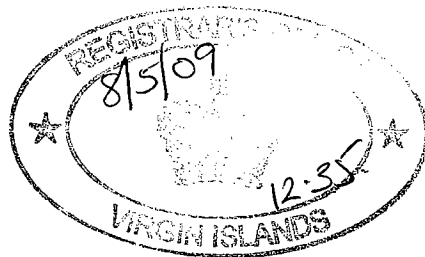
In order to assist creditors, the JPLs have established a dedicated website, [www.kingateeuro-liquidation.vg](http://www.kingateeuro-liquidation.vg), where updates will be posted periodically, in so far as possible. In the meantime, all queries should be directed to [enquiries@kingateeuro-liquidation.vg](mailto:enquiries@kingateeuro-liquidation.vg).

Yours faithfully

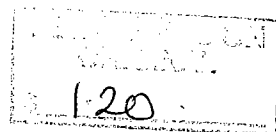


William R Tacon  
Joint Provisional Liquidator

**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

  
\_\_\_\_\_  
Deputy 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

**Media Enquiries:**

Jennifer E. Mercer

Van Meter Consultants

+1-818-802-5199

[jennifermercercer@earthlink.net](mailto:jennifermercercer@earthlink.net)

## **Zolfo Cooper Partners Named as Joint Provisional Liquidators to Kingate Funds**

**British Virgin Islands, 11 May 2009**—The British Virgin Islands' office of Zolfo Cooper today announced today that, on 8 May 2009, the Eastern Caribbean Supreme Court in the British Virgin Islands made an order appointing William Tacon and Richard Fogerty of Zolfo Cooper as Joint Provisional Liquidators of Kingate Global Fund Limited and Kingate Euro Fund Limited, both of which were fully invested in Bernard L. Madoff Investment Securities LLC. The Funds are both registered in the British Virgin Islands with investors in many parts of the world.

"Our function as Joint Provisional Liquidators is to identify, manage, secure and preserve the underlying assets of the Funds. The terms of the BVI Court order and the provisions of the BVI Insolvency Act of 2003 outline our responsibilities throughout this process," said William Tacon of Zolfo Cooper. "We will be reporting to the BVI Court shortly to provide an update on the actions taken since our appointment. At this stage we are not asking investors to submit details of their interests or claims in the Funds, that process will occur later, assuming full liquidation ensues."

The court-appointed Trustee for the liquidation of Bernard L. Madoff Investments Securities LLC, Mr. Irving Picard, recently initiated a legal action against the Funds in the United States Bankruptcy Court for the Southern District of New York.

"The lawsuits against the Funds which have been filed by Mr. Picard will also be an immediate priority for the Joint Provisional Liquidators," added Mr. Tacon.

In order to assist investors and creditors, the Joint Provisional Liquidators have established dedicated websites, [www.kingateglobal-liquidation.vg](http://www.kingateglobal-liquidation.vg) and [www.kingateeuro-liquidation.vg](http://www.kingateeuro-liquidation.vg), where updates will be posted periodically, as information becomes available. The Joint Provisional Liquidators anticipate receiving the full cooperation of the directors of the Funds and various service providers, including their administrator, custodian and investment manager and will be communicating with investors and any creditors in the near future.

### About Zolfo Cooper:

Zolfo Cooper is a leading provider of insolvency and restructuring services in the Caribbean region from its offices in the British Virgin Islands and Cayman Islands. Zolfo Cooper also has offices in North America and Europe and a network of associated firms throughout the Far East and Australia.

###