

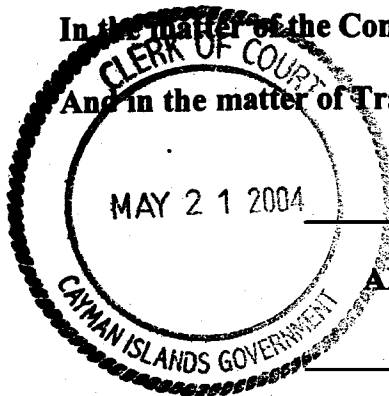
Applicant
Richard Fogerty
First
May 2004

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO 496 OF 2002

In the matter of the Companies Law (2003 Revision)

And in the matter of Trade and Commerce Bank (the "Bank")



AFFIDAVIT OF RICHARD FOGERTY

I, Richard Fogerty, Licensed Insolvency Practitioner and Director of Ernst & Young Ltd. of 4th Floor, Bermuda House, British American Centre, Dr Roy's Drive, George Town, Grand Cayman MAKE OATH and say as follows:

1. G James Cleaver and I are the Joint Official Liquidators (the "Liquidators") of the Bank. For the reasons set out below, I make this affidavit in support of the application for either a variation of the Order dated 18 March 2004 (the "Order") or further directions in relation to compliance with its terms.
2. Save where otherwise indicated to the contrary, the contents of this Affidavit are within my own knowledge and are true to the best of my information, knowledge and belief.
3. The Summons currently before this Honourable Court first seeks an order that time be extended for performance of paragraphs 4 and 5 of the Order and/or that the Court give directions for the proper performance of such steps.
4. Compliance with paragraphs 4 and 5 of the Order has not proved to be straightforward. At "RF 1" is a copy of a recent receipts and payments account

(the "Account") submitted to the Cayman Islands Monetary Authority in the progress of the liquidation to date. The Account sets out the current value of the assets collected and the expenses incurred and highlights the current lack of funds available to the Liquidators to actively progress the winding up of the Bank. The funds in hand of US\$160,959 is reserved for legal costs and the fees of the Joint and Third Liquidators, which at the time of account were in excess of US\$1 million.

5. Since the Bank went into liquidation, the Liquidators have been able to identify accounts in the names of 1,400 customers. The computer records of the Bank were only obtained after the intervention of the criminal courts in Uruguay and have had to be reconstructed by the Liquidators. After the appointment of provisional liquidators over the Bank in July 2002, advertisements were placed in various countries in South America in which the majority of the Banks customers were believed to reside. As a result, a number of customers contacted the provisional liquidators. Additional customers have contacted the Liquidators since that time. In total approximately 1,029 customers have made contact. When such contact has been made the Liquidators have endeavoured to obtain contact information for customers, including e-mail addresses. E-mail addresses have been obtained for 739 customers. In the absence of any such contact, the Liquidators only have the limited records of the Bank with which to identify and locate customers.

6. In order to take steps to comply with paragraph 5 of the Order, the Liquidators have arranged for the translation of the Grand Court Practice Direction No. 2/2003 and the document entitled "A Creditors' Guide to Liquidators' Fees Cayman Islands" dated 30 June 2003. Copies have been sent by e-mail to those 739 customers for whom the Liquidators have e-mail addresses. Of those e-mails, 176 have been returned undelivered and 563 appear to have been successfully delivered.

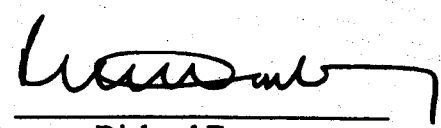
7. The Liquidators estimate that the time cost of arranging for the translation of the above documents and attempting to send them out by e-mail was US\$3,200. Subject to any further directions of this Honourable Court, of the customers not contactable by e-mail, the Liquidators will have to investigate the possibility of sending out hard copies of the above documents by mail or fax either from the Cayman Islands or from within the countries in which the customers reside. At present it is difficult to estimate the cost that will be incurred in having to undertake this exercise. It is anticipated that the cost will be in the region of US\$30,000, the majority of which would relate to courier charges.

8. As matters stand, there is unlikely to be a substantial dividend paid to creditors. In order to comply with paragraph 4 of the Order, the Liquidators will have to decide how best to hold a meeting of creditors. Creditors currently reside in a number of counties in South America but predominately in Uruguay, Argentina and Paraguay. Subject to advice from attorneys in each of those countries, the most economical approach to this issue is to hold one meeting, probably in Uruguay. The anticipated costs of the meeting will be approximately US\$30,000. It is not presently clear whether creditors will be prepared to bear the expense of travelling to such a meeting although they can, of course vote by proxy. In the absence of any likelihood of a substantial dividend being paid, it is also not clear the extent to which creditors are interested in participating in a formal liquidation committee.

9. In the circumstances, the Liquidators seek either an extension of time in order to comply with paragraphs 4 and 5 of the Order or, alternatively, further directions from this Honourable Court in that regard.

Sworn at
this 21st day of *May* 2004
Before me

Linda Barlow Linda R. Barlow
Notary Public
Cayman Islands
Notary Public


Richard Fogerty

FILED by Campbells, Attorneys-at-Law for the Applicants, whose address for service is 4th Floor, Scotiabank Building, P.O. Box 884
GT, George Town, Grand Cayman (Ref AJW)

Applicant
Richard Fogerty
First
May 2004

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This is the Exhibit marked "RF1" referred to in the affidavit of Richard E. L. Fogerty dated this day of May 2004

Sworn before me

At *George Town, Grand Cayman*
On *21st May 2004*

Linda Barlow

Notary Public

Linda R. Barlow
Notary Public
Cayman Islands