

IN THE HIGH COURT OF JUSTICE
SAINT VINCENT AND THE GRENADINES
CLAIM NO. 194 of 2005
IN THE MATTER OF HORIZON BANK INTERNATIONAL LIMITED
AND
IN THE MATTER OF THE INTERNATIONAL BANKS ACT, No. 40 of 2004
AND
IN THE MATTER OF THE COMPANIES ACT, No. 8 of 1994
AND
IN THE MATTER OF THE INTERNATIONAL BUSINESS COMPANIES ACT, No.
18 of 1996



Between

Hon. Judith Jones-Morgan Attorney General of the State of
Saint Vincent and the Grenadines

Applicant

and

Horizon Bank International Limited

Respondent

DATED 6th June 2005

ENTERED *9th* June 2005

G. Grahame Bollers for the Applicant

ORDER

Before the Honourable Madam Justice Gertel Thom on Friday 3rd June 2005

UPON THE APPLICATION by the Petitioner, JUDITH JONES-MORGAN, filed on the 20th day of April 2005, supported by the Affidavits and Exhibits filed on the 20th day of April 2005;

AND UPON READING the Winding-Up Petition of the Petitioner dated the 20th day of April 2005, and the Affidavit Verifying the Accuracy of the Petition dated the 20th day of April 2005;

AND UPON HEARING COUNSEL FOR THE PETITIONER AND UPON being advised of the consent of Mr. Marcus A. Wide of Halifax, Nova Scotia, Canada to act as liquidator of Horizon Bank International Limited:

IT IS HEREBY ORDERED THAT:

1. Horizon Bank International Limited be and is hereby ordered to be compulsorily wound-up and Marcus A. Wide, Director of PricewaterhouseCoopers (WI) Inc., partner in PricewaterhouseCoopers LLP, and a resident of Halifax, Nova Scotia, Canada, is hereby appointed Liquidator (the "Liquidator") of Horizon Bank International Limited (the "Company"), a company continued in Saint Vincent and the Grenadines under the *International Business Companies Act*, No. 18 of 1996, with all the powers and duties of a liquidator as contained in the *Companies Act*, No. 8 of 1994 ("Act") of the laws of the State of Saint Vincent and the Grenadines or any other legislation related thereto and with further duties and responsibilities as conferred by this Order.
2. The Liquidator shall take possession of, gather in and realize all the present and future assets and property of the Company, including without limitation, any real and personal property, cash, choses in action, negotiable instruments, security granted or assigned to the Company by third parties, including property held in trust or for the benefit of the Company, and rights, tangible or intangible, wheresoever situate and to take such steps as are necessary or appropriate to verify the existence and location of all the assets of the Company, or any assets formerly held, whether directly or indirectly, or to the order of or for the benefit of the Company or any present or former subsidiary or company associated with the Company, including the terms of all agreements or other arrangements relating thereto, whether written or oral, the existence or assertion of any lien, charge, encumbrance or security interest thereon, and any other matters which in the opinion of the Liquidator may affect the extent, value, existence, preservation and liquidation of the assets and property of the Company.
3. The Liquidator shall open and maintain a bank account in the Company's name, in liquidation, (the "Account"), at the National Commercial Bank, Kingstown, Saint Vincent and the Grenadines, and deposit therein the funds so gathered and realized. Notwithstanding the foregoing, the Liquidator shall have the power to open and maintain foreign bank accounts or to establish client accounts at the banks of its solicitors, attorneys-at-law, or other legal counsel in foreign

jurisdictions, and receive and hold all or any portion of the proceeds from the sale, recovery, or realization of the Company's assets and property in foreign jurisdictions, in such foreign bank accounts.

4. The funds in the account, and any other of the Company's assets and property, are to be held for the benefit of the depositors, creditors and investors of the Company as their interests appear in accordance with the laws of the State of Saint Vincent and the Grenadines, subject to the payment of fees, expenses and costs of the liquidation which shall be paid in the following order in priority to claims of depositors, creditors, investors or any other person or entity whatsoever:
 - (a) In first priority, the (i) fees and expenses of the Liquidator, including fees and expenses of foreign or domestic legal counsel, and agents, accountants, investigators, forensic analysts or other experts engaged by the Liquidator to assist him in the conduct of his duties and responsibilities, and (ii) costs of the Petitioner in these proceedings (to include the costs and disbursements of the Petitioner's overseas solicitors retained to instruct their counsel herein) (the "Costs");
 - (b) In second priority, the costs of the liquidation, including but not limited to the costs of retaining Company staff and officers to assist in the liquidation (including, without limitation, benefits and expenses, rent, power, telephone, charges associated with computer systems, Company charges and interest), and any other costs that in the opinion of the Liquidator are required to facilitate the liquidation process;
 - (c) In third priority, borrowings, if any, of the Liquidator; and
 - (d) In fourth priority, the balance to be paid on account of the claims of creditors and depositors of the Company as at the date of this Order and in accordance with their priority under the laws of the State of Saint Vincent and the Grenadines, or as may be ordered by this Honourable Court; with the remaining balance, if any, to be distributed to the shareholders of the Company in accordance with their entitlement.
5. The Liquidator shall have a first priority security interest in the assets and property of the Company in priority to all persons as security for his fees, expenses and costs.
6. The Company and any person holding or reasonably believed to have in his or their possession or power any assets, property or information of the Company including without limitation, information evidenced on any computer records, electronic records, programs, disks, documents, books of account, corporate records, minutes, correspondence, opinions rendered to the Company, documents of title, letter in an electronic media or otherwise (collectively called "Papers") relating in whole or in part to the Company (or to such persons, dealings, or

property showing that he is indebted to the Company), may be required by the Liquidator to produce or deliver over such property or Papers forthwith to the Liquidator notwithstanding any claim or lien that such person may have or claim on such assets, property or Papers, and the Liquidator shall have full and complete possession and control of such assets, property and Papers of the Company including its premises. In the event of a *bona fide* dispute over ownership or any legal entitlement to such property or Papers, the Liquidator shall take away copies of such Papers.

7. The Liquidator is authorized in his own name or on behalf of the Company as Liquidator to join in and execute, assign, issue and endorse such transfers, conveyances, contracts, instruments of termination of any contracts, leases, deeds, bills of sale, cheques, bills of lading, or exchange or other documents of whatever nature in respect of any assets, property or Papers of the Company as may be required to carry out his duties including the realization and liquidation of the assets of the Company, or the collection of any Papers of the Company, or for any other purpose pursuant to this Order.
8. The Liquidator is empowered and hereby authorized to (a) borrow such money from time to time as he may consider necessary or desirable including any monies borrowed or to be borrowed for expenses incurred (or to be incurred) by the Liquidator while operating by virtue of his appointment hereunder, save that such borrowings shall not exceed USD\$1 million at any time, and, (b) subject to paragraph 5 hereof, pledge by way of a first charge in priority to all other claims or charges, the assets of the Company as security for such borrowings.
9. The remuneration of the Liquidator and his expenses at cost, may be drawn on accounts of the total on a monthly basis from the assets of the Company including cash and deposits on hand, on the basis of the time expended by the Liquidator and his staff at their usual hourly or daily rates for such work subject to such amounts being taxed from time to time as the Court may direct and, in any event, the account of the Liquidator shall be taxed prior to its discharge.
10. The Liquidator may engage agents, appraisers, auctioneers, brokers, or any other experts as may be required to assist him with the liquidation process and determining claims in the liquidation.
11. The Liquidator may retain independent legal advice and engage legal counsel or other professional advisors or consultants, both inside and outside the State of Saint Vincent and the Grenadines and elsewhere, to assist him as Liquidator for the purpose of his duties hereunder. The Liquidator may also retain the services of private investigators, forensic analysts, accountants or others who are within or without the jurisdiction of this Court, to further his investigations and work in respect of the Company or otherwise.

12. The Liquidator shall provide a report to this Honourable Court within One Hundred Eighty (180) days of his appointment with respect to the liquidation and his preliminary determination of the assets to be realized, the likely recoveries and the extent to which the claims of creditors, depositors, and investors in the Company may be met. The Liquidator shall further report to the Court as he or the Court determines as appropriate, but shall in any event report no less frequently than six (6) months from the date of his last report.
13. The Liquidator, his officers, employees, legal counsel, agents, and other such persons retained by him in the performance of his duties hereunder shall be granted indemnity from the assets of the Company for his fees, expenses and actions taken, including indemnity for any litigation or other claims, actions or demands whatsoever in respect of any debts, costs, claims, liabilities, acts, matters, or other things done or due to be done or omitted by the Liquidator, his officers, employees, legal counsel, agents, and such other persons retained by him except where there is a finding by the Court of gross negligence in the performance of his and/or of their respective duties.
14. All actions, proceedings and any claims whatsoever and wheresoever initiated against the Company, its assets and property, are hereby stayed and no person, which shall include a body corporate, shall bring or continue with a claim or proceeding against the Liquidator or the Company without leave of this Honourable Court.
15. All persons, firms and corporations are hereby restrained from terminating or interfering with utilities or services, including without limitation, the furnishing of electricity, water, telephonic or any other utilities of like kind furnished up to the date of this Order to the Company and such parties are hereby restrained and enjoined from cutting off, disconnecting or altering any such utilities or services to the Liquidator except with the leave of this Honourable Court with not less than fourteen (14) days clear notice to the Liquidator, and then only on such terms as this Honourable Court may order.
16. The Liquidator, in the carrying out of his duties and responsibilities, may apply for direction and guidance from this Honourable Court from time to time, including any application as may be required for the amendment of this Order.
17. The Liquidator, in his name or in the name of the Company, shall be at liberty to apply for any permits, licenses, approvals or permissions as he may be advised by his counsel are required by or deemed necessary pursuant to any laws, governmental or regulatory authority, in the pursuit or performance of his duties hereunder.
18. The Liquidator shall have the authority as an officer of this Honourable Court to act in the State of Saint Vincent and the Grenadines or any foreign jurisdiction where he believes assets, property or Papers of the Company may be situate or

traced at equity or otherwise, and he shall have the right to bring any proceeding or actions in any foreign jurisdiction for the purpose of fulfilling his duties and obligations under this Order and the *Act* and to seek the assistance of any Court of a foreign jurisdiction in the carrying out of the provisions of this Order or any subsequent Order in this proceeding including, without limitation, an Order of examination of persons believed to be knowledgeable of the affairs, assets and property of the Company and to assist the Liquidator in the recovery of the assets and property of the Company or to trace such assets into the hands of others.

19. The Liquidator is hereby constituted as a foreign representative for the purposes of any proceeding with respect to the Company that may be commenced or taken under any applicable law outside of Saint Vincent and the Grenadines, including but not limited to bankruptcy, trust, insolvency, company or other applicable law.
20. The Liquidator shall be at liberty and is hereby authorized and empowered to apply, upon such notice as he may consider necessary or desirable, to any other Court or administrative bodies in any other jurisdictions, whether in Saint Vincent and the Grenadines or elsewhere, without limitation, for orders recognizing the appointment of the Liquidator by this Honourable Court and confirming the powers of the Liquidator in such other jurisdictions, and requesting the further aid, assistance or recognition of any Court, tribunal, governmental and administrative body, or other judicial authority, howsoever styled or constituted, to assist in the carrying out of the terms of this Order and the duties and responsibilities of the Liquidator hereunder, including but not limited to, and on the basis of:
 - (a) all applicable foreign corporate, insolvency, or other statutory provisions or customary practices that permit the recognition of foreign representatives of an insolvent estate; and/or
 - (b) the doctrines curial deference and comity, including but not limited to:
 - (i). recognizing the Liquidator as having the equivalent powers of a liquidator or of an insolvency office holder within any foreign jurisdictions and to investigate the affairs of the Company, take evidence thereof and identify, trace, arrest, seize, freeze, detain, secure, recover, receive, control, preserve and protect the Company's assets, property and Papers and administer such property, assets and Papers, howsoever characterized, pursuant to this Order;
 - (ii). granting extraordinary relief to the Liquidator to identify, trace, arrest, seize, freeze, detain, secure, recover, receive, control, preserve and protect the Company's assets, property, and Papers and compel disclosure of information and documents to the fullest extent otherwise permitted, in aid of

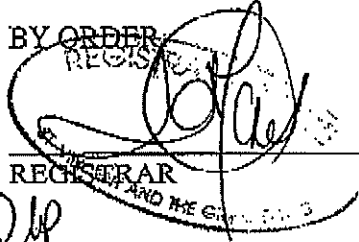
the Liquidator's authority hereunder to discover assets, property and Papers under the dominion or control of the Company, to trace the movement and conversion, past and present, of the Company's property, assets or Papers and to fully learn of the activities of the Company with regard thereto;

- (iii). compelling disclosure of the identities of all known or unknown wrongdoers, facilitators and all other persons or entities who have acted, knowingly or unknowingly, in concert with the Company in any fashion whatsoever;
- (iv). restraining any person who may become aware of this Order of any other proceedings in connection therewith from disclosing same, or any information whatsoever in this regard; and
- (v). compelling for examination under oath, by the Liquidator or other authorized person, any person reasonably thought to have knowledge of the affairs of the Company, or any person who is or has been an agent, banker, clerk, employee, contractor, servant, officer, director, nominee, trustee, fiduciary, auditor, accountant, shareholder, lawyer, attorney, solicitor, advocate or advisor to the Company, regarding the Company, their dealings or the Company's assets, property or papers; in ordering any person liable to be so examined to produce any books, documents, correspondence, reports or papers in his possession or power, relating in all or in part to the Company, or in respect of his dealings with either the Company or with the Company's assets, property or Papers.

- 21. This Honourable Court requests the aid, assistance and recognition of any foreign Court, tribunal, governmental body or other judicial authority, howsoever styled or constituted, in any other jurisdiction where property, assets or Papers of the Company may be found (or traced to) to assist in carrying out the terms of this Order and the duties and responsibilities of the Liquidator hereunder and to act in aid of and to be complementary to this Court in carrying out the terms of this Order.
- 22. The Petitioner is hereby awarded her Costs.

23. The Liquidator shall not be required to post security in respect of his appointment.
24. The Liquidator acts solely in his capacity as Liquidator and without personal liability.

BY ORDER
REGISTRAR
AND THE GENERAL
REGISTRAR



DJP

RECEIVED

06 JUN 2005

BY: _____

IN THE HIGH COURT OF JUSTICE
SAINT VINCENT AND THE GRENADINES
CLAIM NO. 194 of 2005
IN THE MATTER OF HORIZON BANK INTERNATIONAL LIMITED
AND
IN THE MATTER OF THE INTERNATIONAL BANKS ACT, No. 40 of 2004
AND
IN THE MATTER OF THE COMPANIES ACT, No. 8 of 1994
AND
IN THE MATTER OF THE INTERNATIONAL BUSINESS COMPANIES ACT, No.
18 of 1996

Between

Hon. Judith Jones-Morgan Attorney General of the State of
Saint Vincent and the Grenadines

Applicant

and

Horizon Bank International Limited

Respondent

ORDER

G. Grahame Bollers
Hughes & Cummings
Egmont Street
Kingstown
Saint Vincent and the Grenadines
Tel: (784) 456-1711
Fax: (784) 457-2768
Legal Practitioner for the Applicant