

IN THE HIGH COURT OF JUSTICE

SAINT VINCENT AND THE GRENADINES

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CLAIM NO. 1 OF 2018



IN THE MATTER OF LOYAL BANK LIMITED

AND

IN THE MATTER OF THE INTERNATIONAL BANKS ACT CHAPTER 99 OF THE REVISED LAWS OF SAINT VINCENT AND THE GRENADINES 2009

AND

IN THE MATTER OF THE INTERNATIONAL BUSINESS COMPANIES ACT CHAPTER 149 OF THE REVISED LAWS OF SAINT VINCENT AND THE GRENADINES 2009

BETWEEN

HON. JAUNDY MARTIN
ATTORNEY GENERAL OF THE STATE OF
SAINT VINCENT AND THE GRENADINES

APPLICANT

AND

LOYAL BANK LIMITED

RESPONDENT

ORDER

DATED THE 24th DAY OF AUGUST, 2018.

ENTERED THE *27th* DAY OF *August*, 2018.

BEFORE the Honourable Justice Brian Cottle in Chambers on the 24th day of August, 2018.

UPON THE PETITION of the Hon. Attorney General for the compulsory winding up of Loyal Bank Limited dated the 23rd day of August, 2018 supported by an Affidavit and Exhibits of even date.

AND UPON HEARING Mr. J. Williams for the Applicant.

IT IS HEREBY ORDERED THAT:

1. Loyal Bank Limited (hereinafter referred to as "the Bank") be wound up by this Court under the provisions of the International Business Companies Act Chapter 149 of the Revised Laws of Saint Vincent and the Grenadines 2009 (hereinafter referred to as "the Act") and that Mr. Ikins Clarke and Ms. Joan "Betty" Brathwaite be appointed as Joint Liquidators (hereinafter referred to as "the Joint Liquidators") of the Bank with all the powers and duties of a Liquidator as contained in the Act or any other legislation related thereto and with further duties and responsibilities as conferred by this Order.
2. The Joint Liquidators shall take possession of, gather in and realize all the present and future assets and property of the Bank, including without limitation, any real and personal property, cash, choses in action, negotiable instruments, security granted or assigned to the Bank by third parties including property held in trust or for the benefit of the Bank, 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 Bank, or any assets formerly held whether directly or indirectly or to the order of or for the benefit of the Bank or any present or former subsidiary or company associated with the Bank, 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 Joint Liquidators may affect the extent, value, existence, preservation, and liquidation of the assets and property of the Bank.

3. The Joint Liquidators shall open and maintain in their names a bank account (hereinafter referred to as "the Account") at a bank operating within the jurisdiction of this Honourable Court and deposit therein the funds so gathered and realised. Notwithstanding the foregoing, the Joint Liquidators may open temporary bank accounts in foreign jurisdictions and receive the proceeds from the sale or realisation of the Bank's assets and property in those jurisdictions into those accounts, provided such funds shall be returned to the jurisdiction of this Court and placed in the Account.

4. The funds in the Account and any other of the Bank's assets and property are to be held for the benefit of the depositors, creditors and investors of the Bank as their interests appear in accordance with the laws of Saint Vincent and the Grenadines, subject to the payment of the fees, expenses and costs of the liquidation which shall be paid in the following order in priority to claims of depositors, creditors and investors:
 - (a) The fees and expenses of the Joint Liquidators, including fees and expenses of legal counsel, and agents, accountants, investigators or other experts engaged by the Joint Liquidators to assist them in the conduct of their duties and responsibilities;
 - (b) The costs of the liquidation, including but not limited to the costs of retaining Bank staff and officers to assist in liquidation including without limitation benefits and expenses, rent, power, telephone, charges associated with computer systems, bank charges and interest and any other costs that in the opinion of the Joint Liquidators are required to facilitate the liquidation process;
 - (c) Borrowings, if any, of the Joint Liquidators;
 - (d) The balance to be paid on account of the claims of creditors and depositors of the Bank as at the date of this Order and in accordance with their priority under the laws 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 Bank in accordance with their entitlement.

5. The Joint Liquidators shall have a first priority security interest in the assets and property of the Bank in priority to all persons as security for their fees, expenses and costs.
6. The Joint Liquidators be at liberty, and without further order, to examine under oath any person reasonably thought to have knowledge of the affairs of the Bank or any person who is or has been a director, officer, employee, agent, shareholder, accountant of the Bank, or such other person that they believe to be knowledgeable of the affairs of the Bank and to order such person liable to be examined to produce any books, documents, correspondence or papers in his possession or power relating to all or in part to the Bank, its dealings, property and assets and the Joint Liquidators are authorised to issue Writs of Subpoenas ad testificandum and duces tecum for the compulsory attendance of any of the above-named persons required for such examination.
7. The Bank and any person holding or reasonably believed to have in their possession or power any assets or property of the Bank including without limitation, computer records, programs, disks, documents, books of account, corporate records, minutes, opinions rendered to the Bank, documents of title, electronic or otherwise (collectively referred to as "the Papers") relating in whole or in part to the Bank or such persons, dealings, or property showing that they are indebted to the Bank may be required by the Joint Liquidators to produce or deliver over such property forthwith to the Joint Liquidators notwithstanding any claim or lien that such person may have or claim on such assets and property and the Joint Liquidators shall have full and complete possession and control of such assets and property of the Bank including its premises. In the event of a bona fide dispute

as to ownership and legal entitlement to such property and Papers, the Joint Liquidators shall take away facsimile copies of such Papers.

8. The Joint Liquidators are authorised in their own names or on behalf of the Bank as Joint Liquidators to join in and execute, assign, issue and endorse such transfers, conveyances, contracts, leases, deeds, bills of sale, cheques, bills of lading or exchange or other documents of whatever nature in respect of any assets and property of the Bank as may be required to carry out their duties including the realisation and liquidation of the assets of the Bank or for any purpose pursuant to this Order.
9. The Joint Liquidators are empowered and hereby authorised to borrow such money from time to time as they may consider necessary or desirable including any monies borrowed or to be borrowed for expenses incurred by the Joint Liquidators while operating by virtue of their appointment hereunder, saving such borrowings shall not to exceed EC\$1 million at any time, and, subject to paragraph 5 hereof pledge by way of a first charge in priority to all other claims or charges, the assets of the Bank as security for such borrowings.
10. The remuneration of the Joint Liquidators and their expenses at cost, may be drawn on account of the total on a monthly basis from the assets from the Bank including cash and deposits on hand, on the basis of the time expended by the Joint Liquidators and their staff at their usual 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 Joint Liquidators shall be taxed prior to his discharge.

11. The Joint Liquidators may engage agents, appraisers, auctioneers, brokers, or any other experts as may be required to assist them with the liquidation process and determining claims in the liquidation.
12. The Joint Liquidators may retain independent legal advice and engage legal Counsel both inside and outside Saint Vincent and the Grenadines and elsewhere to assist them as Joint Liquidators for the purpose of his duties hereunder.
13. The Joint Liquidators shall have the authority as officers of this Honourable Court to act in Saint Vincent and the Grenadines or any foreign jurisdiction where they believe assets and property of the Bank may be situate and shall have the right to bring any proceeding or action locally or in a foreign jurisdiction for the purpose of fulfilling their 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 Bank and to assist the Joint Liquidators in the recovery of the assets and property of the Bank.
14. The Joint Liquidators shall provide a report to this Honourable Court within thirty (30) days of their appointment with respect to the liquidation and its preliminary determination of the assets to be realised, the likely recoveries and the extent to which the claims of creditors, depositors, and investors in the Bank may be met. The Joint Liquidators shall further report to the Court as they or the Court determines is appropriate, but shall in any event report no less frequently than six months from the date of their last report.

15. The Joint Liquidators, their employees, legal counsel, agents, and such other persons retained by them in the performance of their duties hereunder shall be granted indemnity from the assets of the Bank for their 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 things done or due to be done or omitted by the Joint Liquidators, his employees, legal counsel, agents and such other persons retained by them except where there is a finding by the Court of gross negligence in the performance of their respective duties.
16. All actions, proceedings and any claims whatsoever and wheresoever initiated against the Bank, 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 Joint Liquidators or the Bank without leave of this Honourable Court.
17. All persons, firms and corporations are hereby restrained from terminating or interfering with utilities or services, including without limitation the furnishing of electricity, water, telephone or any other utilities of like kind furnished up to the date of this Order to the Bank and such parties are hereby restrained and enjoined from cutting off, disconnecting or altering any such utilities or services to the Joint Liquidators except with the leave of this Honourable Court with not less than fourteen (14) days clear notice to the Joint Liquidators, and then only on such terms as this Honourable Court may order.
18. The Joint Liquidators may, in the carrying out of their duties and responsibilities, 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.

19. The Joint Liquidators, in their name or in the name of the Bank, shall be at liberty to apply for any permits, licences, approvals or permissions as may be required by or deemed necessary pursuant to any laws, governmental or regulatory authority, in the pursuit and performance of their duties hereunder.
20. The Joint Liquidators are not subject to posting security in respect of their appointment.
21. The Joint Liquidators act solely in their capacity as Joint Liquidators and without personal liability.

BY THE COURT

REGISTRAR'S OFFICE
Chanel Dargatzis
REGISTRAR
OF VINCENT AND THE GRENADINES



FILED by the Attorney General, Attorney-General's Chambers, Ministry of Legal Affairs, Granby Street, Kingstown, whose telephone numbers are (784) 457-2807 or (784) 456-1762.

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Prepared by:


Joezel E. Allen
Crown Counsel
Ministry of Legal Affairs

