

IN THE HIGH COURT OF JUSTICE OF THE ISLE OF MAN

CHANCERY DIVISION

IN THE MATTER of the Companies
Act 1931

and

IN THE MATTER of Kaupthing Singer
& Friedlander (Isle of Man) Limited

and

IN THE MATTER of the Joint Petition
of Kaupthing Singer & Friedlander (Isle
of Man) Limited and the Financial
Supervision Commission dated the 9th
day of October 2008

and

IN THE MATTER of the Humble
Petition of Michael Simpson as
Liquidator provisionally of Kaupthing
Singer & Friedlander (Isle of Man)
Limited dated the 12th day of November
2008

and

IN THE MATTER of the Court Orders
dated the 27th November 2008

THIRD AFFIDAVIT OF ALLAN ROBERT BELL

I, ALLAN ROBERT BELL, of Ballabeg, Bride, being sworn make oath and say as follows:-

1. I am the same Allan Robert Bell who has previously sworn two affidavits in this matter.

2. Where they refer to factual matters directly within my knowledge the contents of this Affidavit are true. The other matters to which I depose in this Affidavit I verily believe to be true to the best of my knowledge, information and belief.
3. I swear this Affidavit to supplement my First and Second Affidavits sworn herein.
4. I refer to the four affidavits sworn herein by David C Lovett of AlixPartners Limited (“AlixPartners”), a business advisory firm which has been retained by Treasury to provide advice in relation to KSFIOM. To the extent that Mr Lovett uses defined terms in his affidavits, I shall adopt such terms herein.
5. The principal purpose of this, my fourth affidavit herein, is to address a discrete issue concerning the funding of the DCS which were raised at the last hearing of this matter on 29 January 2009, namely the impact, if any, of the potential passing of the financial year end of the DCS on 31 March 2009 on cash flow for the DCS.
6. At the hearing on 29 January 2009, the advocate appearing for the FSC quite rightly drew the Court’s attention to the fact that the requested adjournment of 60 days would mean that the winding up Petition would not come back before the Court and KSFIOM could not be wound up and the DCS thereby triggered in the current financial year of the DCS (which ends on 31 March). He made the point that this may result in a reduction in the funds available from the bank levy under the DCS for payments intended to be made in 2009. I can confirm that it would be Treasury’s intention (subject to the approval of Tynwald) to advance to the DCS administrator additional funds sufficient to ensure that the passing of the current financial year end would have no impact upon the DCS administrator’s ability to make the payments anticipated in exhibit “DCL1” to the Third Affidavit of David Lovett sworn herein.
7. I note that at the hearing on 29 January 2009 the Deputy Deemster placed great emphasis upon the fact that the proposed Scheme of Arrangement should ensure that depositors who would otherwise be entitled to claim under the DCS will get the equivalent of their DCS entitlements in full, quicker than under the DCS in the event of a liquidation of KSFIOM. In addition to providing this advantage (and indeed the others outlined in Mr Lovett’s Third Affidavit), I can confirm:

- a. Any interest costs relating to the Top Up Funding will not imposed until all depositors have been repaid their entire claims against KSFIOM in full;
 - b. The costs of the preparation of the Scheme Documents by AlixPartners, Gough & Co., Herbert Smith and London counsel are being borne by the Treasury;
 - c. The Treasury is presently an unsecured creditor of KSFIOM, owed approximately £10.7 million. In the event of the proposed Scheme of Arrangement being approved by creditors and the Court and taking effect, Government would propose that its recovery of that sum be subordinated until all depositors have been repaid their entire claims against KSFIOM in full.
8. In light of the foregoing, I believe it is clear that the Scheme of Arrangement would offer clear and tangible benefits to all types of creditor of KSFIOM, whether or not such creditors would otherwise be entitled to claim under the DCS and would respectfully request that the Court grant a further adjournment of sufficient time for the proposed Scheme of Arrangement to be put to creditors.

Taken and sworn at Douglas

this 12th day of February 2009 :



Before me  :

A Commissioner for Oaths

**KAREN MARGARET MANSELL
COMMISSIONER FOR OATHS**

Dated

2009

Serial No. CP 2008/94

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BELL**

HM Attorney General
Douglas