



Petitioner
K M Krys
First Affidavit
[] of [] 2003

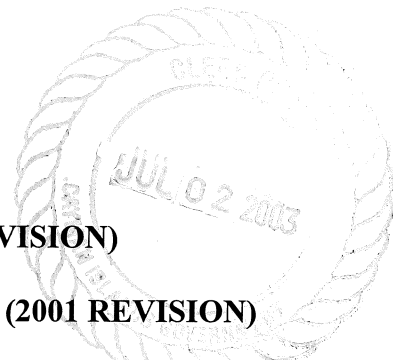
IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: ⁴⁴⁸ OF 2003

IN THE MATTER OF THE COMPANIES LAW (2003 REVISION)

AND IN THE MATTER OF THE MUTUAL FUNDS LAW (2001 REVISION)

**AND IN THE MATTER OF SOVEREIGN MEDICAL FIXED INCOME FUND,
LTD.**



PETITION

TO: HER MAJESTY'S GRAND COURT OF THE CAYMAN ISLANDS

The Humble Petition of THE CAYMAN ISLANDS MONETARY AUTHORITY
(hereinafter called "the Petitioner")

SHOWETH as follows:

1. Sovereign Medical Fixed Income Fund, Ltd. (the "Company") was incorporated as an exempted company on April 24, 2002. The investment objective of the Company as described in the Company's Confidential Offering Memorandum is to provide current income to investors by investing in asset-backed fixed come securities that provide an attractive yield. The Company was registered with the Cayman Islands Monetary Authority as a regulated mutual fund on May 1, 2002.
2. The registered office of the Company is Bodden Corporate Services, Grand Cayman, Grand Pavilion, West Bay Road, Grand Cayman, Cayman Islands.

3. The mutual fund manager and administrator of the Company is Aall Asset Management (Cayman) Limited, pursuant to an investment management agreement and administration agreement, dated July 30, 2002 and March 11, 2002 respectively.
4. The Company's register of members shows Sovereign Asset Management Corporation as owning 50,000 shares of \$1 par value.
5. The directors of the Company at the time of registration with the Authority were Brian Kuhn ("Kuhn") and David Bodden, both appointed April 24, 2002. Mr. Bodden resigned as director on August 9, 2002. Kevin Pidwerbeski ("Pidwerbeski") and Douglas Lamb were appointed as directors of the Company on August 9, 2002 and September 23, 2002.
6. On April 24, 2003, the Authority became aware that Kuhn had been sanctioned by the British Columbia Securities Commission ("BCSC") in September 2002. A settlement agreement found on the BCSC's website indicates Kuhn agreed to a seven year market ban, restitution of \$14,000 to four investors and payment of \$15,000 to the BCSC for failure to exercise sufficient due diligence on certain investments and, additionally, failure to ensure that certain investors' funds were appropriately put into a trust account as required under the securities rules.
7. On May 9, 2003, the Authority became aware of concerns regarding how the Company was operating, which included:
 - The Company was soliciting business locally and has local investors despite the fact that, as an exempt company, it is not permitted to solicit local business.
 - Proceeds received from investors who believed they were investing in the Company were diverted to another entity, B2B Global Internet Fund ("B2B").
 - Some of the funds diverted to B2B were used to pay operational costs of Sovereign Capital Corporation, a related entity.
 - The Company was not operating in accordance with the Confidential Offering Memorandum.

8. As a result of the Authority's concern that the Company was carrying on or attempting to carry on business in a manner that was prejudicial to its investors or creditors and that the direction and management of the Company was not being conducted in a fit and proper manner, pursuant to section 30(3)(e) of the Mutual Funds Law (2001 Revision) ("the Law"), on May 21, 2003, the Authority appointed Mr. Ian Wight and Mr. Stuart Sybersma of Deloitte & Touche as controllers (the Controllers") to assume control of, and report on, the Company's affairs.
9. On June 6, 2002, pursuant to Section 30(3) of the Law and the terms and conditions of the Controllers' appointment, the Controllers submitted an interim report of its findings into the affairs of the Company ("Report").
10. The report indicated that as at the date of the Controllers' appointment Kuhn was not in the Cayman Islands. He returned to the Islands on May 27, 2003 and convened a meeting with the Company's shareholders on May 29, 2003. At the meeting, he admitted through his attorney that the majority of the Company's assets had been *"used for an improper purpose"*.
11. Following an unsuccessful attempt to leave the Islands (such attempt thwarted by an investor of the Fund), Kuhn was arrested and held in custody with the Royal Cayman Islands Police. An article in the Caymanian Compass of June 6, 2003 reported that Kuhn was charged with theft and obtaining property by deception and remanded to be held for four weeks pending further investigation.
12. In their Report, the Controllers concluded:
 - The amount that the administrators recorded as being invested into the Company is \$2.94M. The Controllers have reason to believe there may be another \$0.8M of unrecorded subscriptions. Thus the Controllers believe that the total amount of investment into the Company may be as high as \$3.7M.

- Of that sum, only \$850,000 was invested into fixed income securities, consistent with the Company's offering documents.
- Kuhn, the defacto investment manager, has admitted that under his direction the remainder \$1.9 million was "used for an improper purpose".
- The current asset position of the Company is \$1,020,772. In addition the controllers have identified another \$201,907 in assets not in the name of the Company. Thus, total assets identified are just over \$1.2M.

13. The Controllers recommended that the Company be wound up and that liquidators be appointed.

14. Pursuant to Section 30(11)(b) of the Law, the Petitioner applies under Section 96 of the Companies Law (2003 Revision) for the Company to be wound up by the Court on the grounds that it is just and equitable for the following reasons:

- (a) Absent a significant and costly overhaul of the Company's structure and management, it is almost inconceivable that the Company can continue to operate and attract new investors.
- (b) Investor confidence in the Company has effectively disintegrated as a result of events that have occurred since the appointment of Controllers. Many investors are actively seeking to redeem their capital.
- (c) The remaining value in the Company is so low as to make the Company uneconomical to manage and administer and with little or no prospect of future investment, the costs of continuing to operate the Company could not possibly met from investment income.
- (d) It is expedient in the public interest that the Company be wound up.

YOUR PETITIONER THEREFORE HUMBLY PRAYS as follows: -

- (a) That Sovereign Medical Fixed Income Fund be wound up by the Court subject to the provisions of the Companies Law (2003 Revision);

- (b) That Messrs. Ian Wight and Stuart Sybersma of Deloitte & Touche be appointed as Joint Official Liquidators of the Company, and that the Joint Official Liquidators be authorised to do any acts or things jointly and severally considered by them to be necessary or desirable in connection with the liquidation of the Company and the winding up of its affairs;
- (c) That the Joint Official Liquidators shall not be required to give security for their appointment;
- (d) That the Petitioner be at liberty to apply to the Court at any time, *inter alia*, for the removal of the Joint Official Liquidators;
- (e) That the Joint Official Liquidators be authorised to exercise jointly and severally all the powers set out in Section 109 of the Companies Law (2003 Revision) without further sanction or intervention of this Honourable Court;
- (f) That the Joint Official Liquidators do file with the Clerk of the Court a report in writing of the position of and the progress made with the winding up of the Company and with the realisation of the assets thereof and as to any other matters connected to the winding up of the Company, every six calendar months or as the Court may from time to time direct;
- (g) That, save as aforesaid, the Joint Official Liquidators be at liberty to employ attorneys, counsel and professional advisors whether in the Cayman Islands or elsewhere as they may consider necessary to advise and assist them in performance of their duties and on such terms as they may think fit;
- (h) That the Joint Official Liquidators be at liberty to and do pay themselves, their agents, employees, attorneys, solicitors and whomsoever else they may employ or instruct, remuneration and costs in priority to all other debts of the Company pursuant to Section 123 of the Companies Law (2003 Revision), and:
 - (i) the Joint Official Liquidators be entitled to remuneration of their reasonable fees as agreed or approved pursuant to Rule 4.127 Insolvency Rules;

- (ii) the Joint Official Liquidators be at liberty to pay their agents, employees, attorneys, solicitors and whomsoever else they employ or instruct either weekly or monthly or at such intervals as they consider appropriate;
- (iii) the Joint Official Liquidators be at liberty to meet all disbursements reasonably incurred in connection with the performance of their duties;
- (j) The Joint Official Liquidators shall provide to the Petitioner copies of all reports filed with this Court and/or sent to creditors or contributories of the Company.
- (k) The Joint Official Liquidators shall serve on the Petitioner copies of all applications made to this Court for directions or other relief and any evidence in support thereof, such service to be within a reasonable time of date of the hearing of any such applications.
- (l) That the costs of this Petition be paid out of the assets of the Company as an expense of the liquidation.
- (m) Such other orders and directions may be made as the Court thinks fit.

AND YOUR PETITIONER will ever pray etc.

DATED this 27 day of JUNE 2003.



Langston Sibbles
Legal Counsel for the
Cayman Islands Monetary Authority

INDORSEMENT

This Petition having been presented to the Grand Court of the Cayman Islands on the [] day of [] 2003 will be heard by the Grand Court of the Cayman Islands:

DATE:

TIME:

(or as soon thereafter as the amended petition can be heard).

This petition is filed by the Legal Division of the Cayman Islands Monetary Authority, whose address for service is 80e Shedden Road, Elizabethan Square, PO Box 10052 APO, Grand Cayman, Cayman Islands.