

**THIRD REPORT OF THE PROVISIONAL LIQUIDATOR
OF
SUISSE SECURITY BANK & TRUST LIMITED**

**TO
THE SUPREME COURT OF THE COMMONWEALTH OF THE
BAHAMAS**

Dated: August 4, 2002

- 3.4 As noted in my previous report, RBC Dain Rauscher (formerly Tucker Anthony), pursuant to an attachment Order relative to the JVW matter, had transferred \$3,000,000 to the United States Marshall in order to secure the payment of any funds awarded to the plaintiff in that matter.

**ASSETS THAT REMAIN UNDER THE CONTROL OF MANAGEMENT,
DIRECTORS AND SHAREHOLDERS OF THE BANK**

➤ SSI	US\$5,540,631 ¹
➤ SSH	US\$12,001,291
	CHF300,627 (US\$175,145)

- 3.5 On July 13, 2001, I was granted an Order restraining SSH and SSI from disposing of the assets of the Bank and its customers held in the accounts at Barclays Bank PLC, Nassau, Bahamas.

UBS Geneva and/or any other account until further notice. A copy of this Order was sent to Barclays, UBS Geneva and Ryan & Co., the registered offices of SSH and SSI. On July 31, 2001 the Compliance Officer and Money Laundering Reporting Officer of Barclays confirmed that the accounts were blocked in accordance with the Restraining Order. Further, by letter dated December 12, 2001 my attorney requested assurance from Barclays that the funds of SSI were still being restrained. **By letter dated January 4, 2002 McKinney Bancroft & Hughes, acting on behalf of Barclays, confirmed that Barclays, was not holding any funds in the name of SSI as the account was closed on April 24, 2001.**

- 3.6 Despite my numerous requests for cooperation, the Bank's employees, management, shareholders, attorney and directors have refused to comply. To date this lack of cooperation and the blatant disregard for the Orders of the Court namely the Order of my appointment and the Restraining Order has resulted in me not being able to obtain information on the SSH and SSI accounts and more importantly to gain control of the cash balances once held at Barclays and UBS Geneva in the name of SSI and SSH, respectively. From the limited information available to me these balances total US\$17,541,922 and CHF300,627. Further as long as these funds remain under the control of management this Bank is rendered insolvent, as the assets presently available to me are insufficient to cover the Bank's liabilities to depositors and creditors. In this regard, I hereby request that this Honourable Court require management, staff, directors and attorney of the Bank and the shareholders and Directors of SSH and SSI to file with the Court an accounting of the funds once held on accounts at Barclays and UBS Geneva in the name of SSI and SSH respectively.

¹*This includes deposits totaling \$953,591.84 that I am advised were made after March 5, 2001.*

- 3.18 As Provisional Liquidator I continue to receive an abundance of telephone calls from depositors and creditors of the Bank relative to funds transferred to accounts in the name of SSH and SSI at UBS Geneva and Barclays Bank, PLC, respectively, both prior and subsequent to March 5, 2001 for further credit to their accounts at the Bank. The depositors and creditors are concerned that as long as these funds remain under the control of management, there may be insufficient funds left to cover depositor balances. In fact, I have the same concern as the losses associated with the activities outlined in this Affidavit coupled with a potential loss to the Bank of US \$3,000,000 in the action *Correspondent Services Corp. v. JWV Investments Ltd., First Equities Corp. of Florida, J. V. Waggoner and Donal Kelleher v. Suisse Security Bank and Trust Ltd., No. 99 Civ 8934 (RWS) United States District, Southern District of New York ("JWV matter")* are substantial and are set out below:

JWV matter	3,000,000
K.D. Trinh	1,599,824
Michael Kotlajic/Tempra Inv.	742,143
SSI's Account at Barclays	5,540,631
SSH's Account at UBS Geneva	12,176,436
Unrealized loss on securities	<u>8,422,260</u>
	<u>\$31,481,295</u>

4. CONCLUSION

Throughout this report, I have given information relative to the obstructions and interference by the Bank's management, staff, shareholders, directors and attorney in my performance of my duties as provisional liquidator. In fact total assets to be recovered as a result of their interference and obstruction is US\$31,481,295 and, as previously discussed, without the recovery of these balances this Bank will not be able to cover its liabilities (See appendix VI.). As discussed, these acts of obstruction and interference include:

SSH and SSI - Funds once held on these accounts in the name of SSI and SSH in the amount of US\$17,541,922.09 and CHF 300,627.31 (US\$175,145.47) remain unaccounted for and under the control of management, shareholders and directors of the Bank. The funds at Barclays may have been taken out of this jurisdiction.

RBC Dain Rauscher - Prior to releasing assets to me in May 2002, and based on a letter dated May 10, 2001 from Derek Ryan, RBC Dain Rauscher (formerly Tucker Anthony) had refused to accept my instructions relative to the transfer of these assets and sale of securities. Unrealized loss on securities from February 28, 2001 to July 31, 2002 is \$8,422,260; as a result, the Bank and its clients will have to bear this loss.

SCHEDULE OF ASSETS TO BE RECOVERED AND POTENTIAL LOSSES (Unaudited)

Cash transferred to the United States Marshall relative to JWV legal action	1	\$ 3,000,000
Cash transferred in trust to the attorney of the plaintiff in the KD Trinh legal action	2	1,599,824
Michael Kotlajic/Tempra Investment S.A.	3	742,143
SSI's account at Barclays Bank	4	5,540,631
SSH's account at UBS Geneva	5	12,176,436
Unrealized loss on securities	6	<u>8,422,260</u>
Total assets to be recovered		<u>\$ 31,481,295</u>

1. Pursuant to an Order of Attachment funds transferred from the Bank's account at Tucker Anthony to the United States Marshall on April 19, 2001. See Sections 3.9 through 3.11 of the report for detail.
2. Funds were transferred to the trust account of the plaintiff's attorney on February 29, 2000. the Bank has lost the appeal of this case. It is indicated in the Bank's financial statements that Mohammed Harajchi has undertaken to cover this amount; in this regard my attorney will issue a demand letter on Mr. Harajchi relative to this matter (See Sections 3.7 through 3.8 of this report).
3. For details see section 3.12 of this report.
4. Amount represents the balance on accounts at Barclays Bank on March 1, 2001, in the name of Suisse Security Investments Inc. ("SSI"). I determined that these accounts held the balances of the Bank and its clients and as such I obtained a Restraining Order over these balances. Barclays has indicated that the accounts of SSI were closed on April 24, 2001. SSI is a Bahamian IBC and its sole shareholder is Michel Harajchi. For further details see Sections 3.2 and 3.5 through 3.6 of the report.
5. Amount represents the balance on accounts in the name of Suisse Security Holdings Ltd. ("SSH"). These accounts were closed between February 2 and 5, 2001. I determined that these accounts held balances of the Bank and its clients as such I obtained a Restraining Order over these balances. SSH is an IBC and Ryan & Co. is its Registered Office. To date, I have not been able to obtain details of these accounts nor have I been able to determine where these funds have been moved. For further details see Sections 3.2 and 3.5 through 3.6 of the report.