

IN THE SUPREME COURT OF BERMUDA  
(COMMERCIAL COURT)  
CIVIL JURISDICTION  
2009 Nos. 23, 149 & 150

BETWEEN:

- (1) KINGATE GLOBAL FUND LTD
- (2) KINGATE EURO FUND LTD

Plaintiffs

AND

- (1) THE BANK OF BERMUDA LIMITED (HSBC)

Defendant

- (2) KNIGHTSBRIDGE (USD) FUND LIMITED
- (3) FORTIS BANK (NEDERLAND) N.V.
- (4) STANDARD CHARTERED BANK

Interveners/ Defendants

AND

BETWEEN:

- (1) KNIGHTSBRIDGE (USD) FUND LIMITED
- (2) FORTIS BANK (NEDERLAND) N.V.
- (3) STANDARD CHARTERED BANK

Plaintiffs by Counterclaim

AND

- (1) KINGATE GLOBAL FUND LTD
- (2) THE BANK OF BERMUDA LIMITED (HSBC)

Defendants to Counterclaims

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JUDGMENT & ORDER

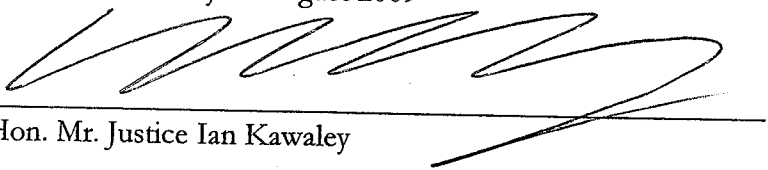
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Judgment having been entered against Kingate Global Fund Limited ("Kingate Global") and the Bank of Bermuda Limited HSBC ("Bank of Bermuda"), the Defendants to the Counterclaims

**IT IS ORDERED THAT:**

1. Declarations are hereby made that:
  - (i) The sum of USD\$3 million received by Kingate Global (and placed into Bank of Bermuda account number 010-424174-561) for the (failed) special purpose of enabling Standard Chartered Bank ("SCB") to subscribe for shares in Kingate Global was received and is held upon trust by Kingate Global for SCB, which is, accordingly, entitled to trace that sum into the said account; and
  - (ii) The sum of USD\$6 million received by Kingate Global (and placed into Bank of Bermuda account number 010-424174-561) for the (failed) special purpose of enabling Knightsbridge (USD) Fund Limited ("Knightsbridge") to subscribe for shares in Kingate Global was received and is held upon trust by Kingate Global for Knightsbridge, which is, accordingly, entitled to trace that sum into the said account.
2. Paragraph 4 of the Order dated 5 June 2009 be varied in the following terms:
  - (i) Kingate Global pay forthwith from account number 010-424174-561 to SCB (as per the attached wire transfer instructions) the sum of USD\$3,054,657.30 (inclusive of interest calculated from 26 May 2009 to 28 August 2009) plus interest of USD\$575.34 per diem on and from 29 August 2009 until actual payment.
  - (ii) Kingate Global pay forthwith from account number 010-424174-561 to Knightsbridge (as per the attached wire transfer instructions) the sum of USD\$6,109,314.38 (inclusive of interest calculated from 26 May 2009 to 28 August 2009) plus interest of USD\$1,150.68 per diem on and from 29 August 2009 until actual payment.
3. Kingate Global is liable to pay forthwith the Counterclaimants' and the Bank of Bermuda's costs, to be taxed if not agreed on the standard basis.
4. Kingate Global shall pay the Counterclaimants' and the Bank of Bermuda's costs out of the assets of the company in priority to all other claims of unsecured creditors, including the liquidators' claim for his own costs
5. The payments referred to at paragraph two (2) above (exclusive of the interest provisions) shall be stayed for fourteen (14) days.

Dated this 28<sup>th</sup> day of August 2009

  
Hon. Mr. Justice Ian Kawaley

**WIRE TRANSFER INSTRUCTIONS FOR ATTRIDE-STIRLING &  
WOLONIECKI FOR US DOLLAR TRUST ACCOUNT**

**NEW US DOLLAR "USD" INSTRUCTIONS TO RECEIVE FUNDS  
INTO OUR ACCOUNT AT THE BANK OF BERMUDA LIMITED**

**Correspondent Bank:**

HSBC Bank USA  
452 Fifth Avenue  
New York, New York  
USA 10018  
Swift Code: MRMDUS33  
CHIPS ABA: 0108  
FED ABA: 021001088

**Beneficiary Bank:**

The Bank of Bermuda Limited  
6 Front Street  
Hamilton  
Bermuda  
Swift Code: BBDABMHM

**Beneficiary Information:**

Account Name: Attride-Stirling & Woloniecki  
  
Account Number: 010 716751 502 (United States Dollars)

**ASW Ref: Standard Chartered Bank /Knightsbridge (USD) Fund  
Limited**

**Client Ref: 1430-002**

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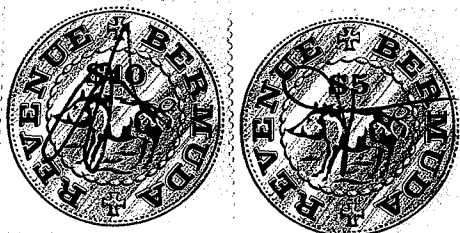
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- (2) THE BANK OF BERMUDA LIMITED (HSBC)

Defendants to Counterclaim

JUDGMENT & ORDER

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Hamilton, HM 11  
Bermuda

Attorneys for the Counterclaimants  
NT/1430-002



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