



STOCKS & SECURITIES LTD

(In Court Supervised Winding-Up)

***Caydion Campbell Appointed Trustee on 16 January 2023***

21 June 2024

**TO ALL KNOWN, POTENTIAL & CONTINGENT CLAIMANTS AND/OR CREDITORS OF SSL**

Dear Sir or Madam:

**Stocks and Securities Limited (In Court Supervised Winding-up)**

As you may be aware on 31 May 2024, the Supreme Court of Judicature of Jamaica handed down its decision in a suit that was brought by the Financial Services Commission (FSC) versus Stocks and Securities Limited (In Members' Voluntary Winding-Up) and Caydion Campbell – Claim SU 2023 CD00036. The decision confirmed the appointment of the undersigned, Caydion Campbell as Trustee with effect from 16 January 2023. It also moved the winding-up to being under the Supervision of the Court. The Court also terminated the appointment of Mr. Kenneth Tomlinson as Temporary Manager of SSL.

A copy of the full judgement is available for download from [www.sslinvest.com](http://www.sslinvest.com). I have attached a copy of the **Formal Orders**, in relation to the matter that were issued by the Supreme Court on 6 June 2024; this is also available from [www.sslinvest.com](http://www.sslinvest.com)

Given the high public interest in the matter and to clarify what I was engaged to do, which was to facilitate the reorganisation of the SSL business, I have made available on [www.sslinvest.com](http://www.sslinvest.com) a copy of my **Engagement Letter**. I have also made available a copy of my **Witness Statement** to the Court. I am sure upon reading these documents you will recognize that my role as Trustee is in no way prejudicial to the interest of the creditors and claimants of SSL nor the public interest. It does not prevent any investigations into the alleged<sup>1</sup> crimes that were committed or the prosecution of offenders.

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<sup>1</sup> The term *alleged* is used in recognition that a determination has not yet been made in the Court and is not a comment by the Trustee.



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### **Reorganisation of the business of SSL**

As was indicated before, I was engaged primarily to facilitate the reorganization of the business of SSL. The strategy was to develop a ***Resolution Plan*** that would eventually be approved by the FSC, and the Court if necessary. It had to have the support of the creditors and claimants of SSL to be implemented.

I should also indicate that up to 24 January 2023, I had discussions with the team from Spectrum Capital Partners Limited (“Spectrum”) who had executed a Share Subscription Agreement and a Shareholders’ Agreement with existing shareholders of SSL for their acquisition of approximately 60% of the entity for Four Million United States Dollars (**US\$4,000,000**). Spectrum had already paid **US\$2,000,000** and the other **US\$2,000,000** was payable by 1 March 2023. Spectrum confirmed to me that they were still interested in the acquisition of the controlling stake in the SSL business which could have been facilitated by a reorganization of SSL. I should indicate that it is possible to separate the en bloc business and operations of a company, in particular one with licences to operate as a regulated financial entity, from the legal entity via a ***Scheme of Reorganization*** in a Winding-Up. This is a procedure for preserving the going-concern value of a business for all the stakeholders and it has been done by many companies in Jamaica. The Spectrum deal collapsed after I was excluded from the affairs of SSL by the Court injunction. Given the activities during the Temporary Management it is now highly unlikely that there will be an opportunity to reorganise the business of SSL.

### **Recommendation for Court Supervised Winding-Up**

I should indicate that by letter dated 24 January 2023, I had formally recommended a ***Court Supervised Winding-Up*** with Mr. Kenneth Tomlinson being appointed as a Joint Trustee. There is provision in the Companies Act for this.

307. – (1) *Where an order is made for a winding up subject to supervision, the Court may by that or any subsequent order appoint an additional liquidator.*



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The FSC rejected this approach. Instead, they initiated legal proceedings on 25 January 2023 by which they sought to overturn my appointment. This prevented me from discharging my responsibilities as outlined in the Companies Act and other relevant statutes. The Court has now restored my authority over SSL and commenced the Court Supervised Winding-up.

### **Stay of Proceedings**

If you had initiated or intended to pursue litigation against SSL, kindly note **Order # 11** recited below:

***“11. There is a stay of all pending or other proceedings against the 1<sup>st</sup> Defendant [SSL] and no suit, action, or other proceedings including criminal proceedings shall be proceeded with or commenced against the 1<sup>st</sup> Defendant unless the permission of this Court is obtained”***

You should submit your ***Proof of Claim*** to the Trustee for adjudication and as admitted and appropriate participate in the winding-up proceedings and meeting(s) of creditors and claimants.

I should point out that the ***Stay of Proceedings*** is not peculiar to the SSL case or Jamaica. It is regarded as part of the best practice to preserve the assets of the entity for the ultimate benefit of all proven creditors in accordance with their ranking. It prevents the entity from being burdened with new liabilities and expenses which would rank ahead of the legacy liabilities and ultimately reduce the net assets available for distribution to creditors and claimants. It also allows a Trustee to treat each claimant in a similar manner according to the applicable laws, with no preference being shown to any party. It preserves the ***pari passu principle*** whereby all unsecured creditors must share equally any available assets of the company or any proceeds from the sale of any of those assets, in proportion to the debts due to each creditor.

### **Notice to Creditors/Claimants and Claims Adjudication**



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As mandated by **Order # 10**, recited below, all known potential and contingent claimants and/or creditors of SSL are required to submit a ***Proof of Claim*** for adjudication and proving by the Trustee:

***“10. The Trustee is further ordered and directed to invite, by post, electronic mail, newspaper publication and/or any address known to the 1<sup>st</sup> Defendant [SSL], all known potential and contingent claimants and/or creditors of the 1<sup>st</sup> Defendant to submit their proof of claims for adjudication and proving by the Trustee and/or for their admission or voting at a meeting of creditors and/or ranking for distribution and/or payment or for the reorganisation of the business or otherwise whatsoever in accordance with the Insolvency Act or any further order of the Court.***

I have attached a copy of the original Special Resolution, Notice of Appointment of Trustee and Notice to Creditors that was published in the Extraordinary Gazette of 17 January 2023. The injunction that was obtained by the FSC had prevented their publication and the ***Claims Adjudication Process*** from commencing before.

**I have also attached the current Notice to Creditors and Claimants which invites these stakeholders to submit their *Proof of Claim* for adjudication by Friday, 26 July 2024.**

It is by the ***Adjudication Process*** that claims are ultimately determined by the Trustee as to their admissibility and rank for distribution. It is possible for claims to be disallowed or approved for an amount that is different from what was submitted. An aggrieved creditor or claimant may, **with the leave of the Court**, appeal the decision of the Trustee.

I must advise that the ***Adjudication Process*** could not have been formally undertaken by the Temporary Manager as it is outside of the scope of authority given in the Financial Services Commission Act (FSC Act). Therefore, you are required to comply with the process under the ***Court Supervised Winding-Up*** and not solely rely on communications and documentation you may have already been provided during Temporary Management. I do apologize for the



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inconvenience and delay this may cause and as far as practical my team will utilise the information and documentation previously provided. **However, you will at a minimum be required to complete and submit the prescribed *Proof of Claim* form to be eligible for a distribution by the Trustee. This requirement is applicable to all claimants and creditors, including those related to off-balance sheet managed portfolios.**

**Proof of Claim**

A fillable pdf ***Proof of Claim*** is attached, which you are being asked to return preferably by email to [sslclaims@praisetrustee.com](mailto:sslclaims@praisetrustee.com) with copy to [sslserviceteam@sslinvest.com](mailto:sslserviceteam@sslinvest.com).

The ***Proof of Claim*** may also be collected from, and when completed dropped off at, the following address:

Stocks and Securities Limited (In Court Supervised Winding-Up)  
c/o PRAISE Trustee Limited  
Suite # 3,  
47<sup>E</sup> Old Hope Road  
Kingston 5  
Jamaica, W.I.

The ***Proof of Claim*** is also available for download from [www.sslinvest.com](http://www.sslinvest.com) and the deadline for submission is **Friday, 26 July 2024**.



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### **Classes of Creditors and Claimants**

The ***Proof of Claim*** has identified an expected five (5) classes of creditors and claimants in the SSL winding-up estate, inclusive of those with off-balance sheet managed portfolios for which SSL acted as a trustee:

- A. Unsecured Creditors
- B. Unaffected Trust Claimants
- C. Affected Trust Claimants (Contingent Creditors)
- D. Temporary Management Claimants
- E. Equity Claimants

### ***Unsecured Creditors***

The unsecured (on-balance sheet) creditors are expected to include the following:

- i. Clients Payable (representing cash shortfall due to clients – difference between Assets Under Management (AUM) and Clients' Cash Accounts)
- ii. Promissory Note Holders (SSL issued Promissory Notes)
- iii. Employees
- iv. Statutory payments and other obligations to state agencies
- v. Trade Creditors – suppliers of goods and services to SSL

Some of these creditors may be entitled to a priority as is stipulated in Section 202 of the Insolvency Act.

### ***Unaffected Trust Claimants***

SSL acted as trustee<sup>2</sup> and managed portfolios on behalf of some of its clients/customers that were held “***off-balance sheet***”. These are ***non-proprietary assets*** (with the associated liabilities) of SSL. In this case, circumstances have now led to the trustee of these portfolios being wound-up.

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<sup>2</sup> This is not to be confused with the Trustee in the winding-up.



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The indications are that the majority of ***Trust Claimants*** were unaffected by the alleged fraud and would therefore be able to submit their claim for the unaffected balance of their portfolio. I should however indicate that it is likely that there will be some charge associated with management and liquidation of the portfolios of ***Unaffected Trust Claimants***. This charge will be applied before the final distribution to account holders, in accordance with the principle of fair allocation of the costs of insolvency. Discussions are being had with the FSC with a view to have agreement on the mechanism for this. The outcome of these discussions will determine the timeline for resumption of payouts to the Unaffected Trust Claimants. The determination may also have to await the Trustee's return to Court on 26 September 2024.

***Affected Trust Claimants (Contingent Creditors)***

It is my understanding that a number of clients' portfolios, approximately 200 according to information from the Financial Investigations Division (FID), were affected by the alleged fraud and the balances standing to their accounts are not what they ought to be. These clients may have a contingent claim against SSL and a contingent liability has been recognised by the Trustee. The contingent liability gave rise to a contingent asset in the form of an insurance claim under SSL's Fidelity Guarantee (employee dishonesty) policy (see below).

***Temporary Management Claimants***

These would be claims for any unpaid amount as at 31 May 2024 that were authorised by the Temporary Manager or the FSC during the period 17 January 2023 to 31 May 2024. It is also possible that the FSC may have a claim against SSL for expenses it incurred under the Temporary Management of the organisation.



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### ***Equity Claimants***

Equity claims are as defined in the Insolvency Act, in respect of an equity interest including a claim for, among others -

- a) A dividend or similar payments;
- b) A return of capital;
- c) A redemption or retraction obligation;
- d) A monetary loss resulting from the ownership purchase or sale of an equity interest or from the rescission of a purchase or sale of an equity interest; or
- e) Contribution or indemnity in respect of a claim referred to in any of paragraphs (a) to (d);

Spectrum Capital Partners Limited may have an equity claim against SSL.

### **Realisation of Contingent Asset**

The former Temporary Manager, Mr. Kenneth Tomlinson has confirmed that One Million United States Dollars (**US\$1,000,000**) was received from the insurers in settlement of claim made under the ***Fidelity Guarantee*** insurance coverage for acts of dishonesty or fraud by employees. The claim was with respect to the alleged fraud committed by former employee, Jean-Ann Panton, who is before the Court facing criminal charges. The ***Contingent Asset*** has therefore materialised and would be recorded as a Trust Receivable as at 16 January 2023.

The information from Mr. Tomlinson, also indicates that the funds from the insurance proceeds were expended on Temporary Management expenses and are not available for the benefit of the victims that have so far been identified. The victims are expected to submit claims under the category ***Affected Trust Creditors***. I should indicate that I strongly disagree with the usage of the proceeds of the insurance claim for general Temporary Management expenses, in particular as the ***Affected Trust Creditors*** may ultimately have no other recourse to the assets of SSL which are already inadequate to cover the on-book unsecured liabilities.





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I am making further enquiries and discussions are being had on this issue. I am also exploring a mechanism for the recovery of these funds for the ***Affected Trust Claimants***; but offer no guarantee in this regard.

### **Management Fees Chargeable to Unaffected Trust Claimant**

I should also advise that based on my analysis of information provided by the Temporary Management team, significant expenses were incurred in facilitating activities primarily for the benefit of the ***Unaffected Trust Claimants***. These costs have been borne by other creditors and claimants, in particular as no “***management fees***” have been charged since January 2023.

This is a breach of the principle of fair allocation of the cost of insolvency. It is therefore likely that a “***management fee***” or some such charge will be deductible from balances held by ***Unaffected Trust Creditors*** before there is the finalisation of the transfer of the balances on their account to the new institution of their choice. Discussions are being had with the FSC in this regard, and timeliness with which there can be a modified resumption of the transfer of clients’ portfolios is dependent on the outcome. This will be communicated to the relevant claimants as soon as practical.

### **Meetings of Creditors & Claimants**

I have tentatively set **Friday, 18 October 2024** as the day for the meetings of the creditors and claimants of SSL. This is to allow for the submission of the ***Trustee’s Report to Court*** as mandated by **Order # 12** and for any application for directions of the Court on 26 September 2024. It will also facilitate the Trustee ascertaining the **State of Affairs** of SSL as at 16 January 2023, being the date of the commencement of the winding-up. A review of the activities during the Temporary Management will also be undertaken.



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Importantly, as Trustee, I am obliged to investigate the causes of failure of SSL as well as any offences antecedent to or in the course of the winding up. I will cite below two relevant provisions from the Companies Act:

321. –(1) *If where a company is wound up it is shown that the proper books of account were not kept by the company throughout the period of two years immediately preceding the commencement of winding up, or the period between the incorporation of the company and the commencement of the winding up, whichever is the shorter, every officer of the company shall, unless he shows that he acted honestly and that the circumstances in which the business of the company was carried on the default was excusable, be guilty of an offence and shall be liable ---*

*(a) on conviction in Circuit Court to a fine or to imprisonment with or without hard labour for a term not exceeding one year; or*

*(b) on summary conviction before a Resident Magistrate to a fine not exceeding two million dollars or to imprisonment for a term not exceeding six months.*

324. –(2) *If it appears to the trustee [liquidator<sup>3</sup>] in the course of a voluntary winding up that any past or present officer, or any member, of a company has been guilty of any offence in relation to the company for which he is criminally liable, he shall forthwith report the matter to the Director of Public Prosecutions, and shall furnish to the Director such information and give to him such access to and facilities for inspecting and taking copies of any documents, being information or documents in such possession or under the control of the trustee [liquidator] and relating to the matter in question, as the Director may require.*

I should point out that contrary to some erroneous assertions, my appointment by the members (shareholders) of SSL, as facilitated the directors, offers no protection or insulation for these stakeholders nor any former officers, managers of employees of SSL for any offences or crimes they may have committed. I am duty bound to report any evidence of a crime to the DPP. It is my understanding that there are ongoing investigations by the FID. I have indicated to the FID that their access to documents and information on SSL is unaffected by the confirmation of my appointment and I will work cooperatively with them.

I would urge any ***Affected Trust Claimant*** who has not yet filed a formal complaint with the FID to do so forthwith in addition to submitting their Proof of Claim in the winding-up proceedings.

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<sup>3</sup> *The term Trustee is now used instead of Liquidator.*



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You have my commitment that in the discharge of my duties as Trustee, with the company now being declared insolvent, my primary duty of care is to the general body of creditors and claimants under the Supervision of the Court. **SSL and its creditors and claimants are now one and the same as you are the ones with an economic interest in the company; anything that benefits SSL benefits you; any action against SSL is an action against you.** I will however be mindful of the interests of other stakeholders, including the FSC, the FID, the DPP and the general public as long as it is not to the detriment of creditors and claimants.

Please submit your **Proof of Claim** immediately or no later than **Friday, 26 July 2024**. You are also asked, if applicable, to comply with the requirements indicated in the attached ***Notice to Clients To Update Their Accounts***.

Please monitor the company's website at [www.sslinvest.com](http://www.sslinvest.com) for further updates and information.

Yours faithfully,

Caydion E. O. Campbell

Trustee

Stocks and Securities Limited (In Court Supervised Winding-Up)

c/o PRAISE Trustee Limited

Suite # 3, 47<sup>E</sup> Old Hope Road, Kingston 5, Jamaica, W.I.

Email: [caydion@praisetrustee.com](mailto:caydion@praisetrustee.com) Telephone (876) 990-0555 (Flow) or (876) 383-8944 (Digicel)

**Attachments: Formal Orders**

**Extraordinary Gazette Publication of 17 January 2023**

**Notice to Creditors and Claimants dated 17 June 2024**

**Proof of Claim (fillable pdf)**

**Notice to Clients To Update Their Accounts**