

S-074146

No. _____
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

DOUGLAS WELDER

PETITIONER

AND:

INTERNATIONAL FIDUCIARY CORP. S.A.,
KNIGHT CAPITAL CORPORATION, DENISE ANSTEY,
DENNIS HALL and PERSONS WHOSE NAMES ARE
UNKNOWN TO THE PETITIONER

RESPONDENTS

PETITION TO THE COURT

THIS IS THE PETITION OF:

Douglas Welder
c/o Webster Hudson & Akerly LLP
510-1040 West Georgia Street,
Vancouver, British Columbia V6E 4H1

ON NOTICE TO:

INTERNATIONAL FIDUCIARY CORP. S.A.
by its Receiver Roy M. Terry, Esq.
DuretteBradshaw PLC
Main Street Centre, 20th floor
600 East Main Street
Richmond VA USA 23219

KNIGHT CAPITAL CORPORATION
1555 East Flamingo Road, suite 440
Las Vegas NV USA 89119

DENISE ANSTEY
 c/o Douglas Holl Professional Corporation
 Barrister and Solicitor
 301, 615 - 3rd Ave. SW
 Calgary AB T2P 0G6

DENNIS HALL
 c/o Camp Fiorante Matthews
 Barristers & Solicitors
 555 West Georgia Street, 4th floor
 Vancouver BC V6B 1Z6

Let all persons whose interests may be affected by the Order sought TAKE NOTICE that the petitioner applies to Court for the relief set out in this petition.

APPEARANCE REQUIRED

IF YOU WISH TO BE HEARD at the hearing of the petition or wish to be notified of any further proceedings, YOU MUST GIVE NOTICE of your intention by filing a form entitled "Appearance" in the above registry of this court within the Time for Appearance and YOU MUST ALSO DELIVER a copy of the "Appearance" to the petitioner's address for delivery, which is set out in this petition.

YOU OR YOUR SOLICITOR may file the "Appearance". You may obtain a form of "Appearance" at the registry.

IF YOU FAIL to file the "Appearance" within the proper Time for Appearance, the Petitioner may continue this application without further notice.

TIME FOR APPEARANCE

Where this Petition is served on a person in British Columbia, the time for appearance by that person is 7 days from the service (not including the day of service).

Where this Petition is served on a person outside British Columbia, the time for appearance by that person after service is 21 days in the case of a person residing anywhere within Canada, 28 days in the case of a person residing in the United States of America and 42 days in the case of a person residing elsewhere (or where the time for appearance has been set by order of the Court, within that time).

TIME FOR RESPONSE

IF YOU WISH TO RESPOND to the application, you must, on or before the 8th day after you have entered an appearance:

- (a) deliver to the petitioner:
 - (i) 2 copies of a response in Form 124; and
 - (ii) 2 copies of each affidavit on which you intend to rely at the hearing; and
- (b) deliver to every other party of record:
 - (i) one copy of a response in Form 124; and
 - (ii) one copy of each affidavit on which you intend to rely at the hearing.

1. The address of the registry is:
 The Law Courts
 800 Smithe Street
 Vancouver BC V6Z 2E1

2. The ADDRESS FOR DELIVERY is:
 c/o WEBSTER HUDSON & AKERLY LLP
 Barristers and Solicitors
 510 - 1040 West Georgia Street
 Vancouver, British Columbia, V6E 4H1
 Fax number for delivery: (604) 682-3438

3. The name and office address of the petitioner's solicitor is:
 Jack Webster, Q.C.
 WEBSTER HUDSON & AKERLY LLP
 Barristers and Solicitors
 510 - 1040 West Georgia Street
 Vancouver, British Columbia, V6E 4H1

The Petitioner applies for an Order that:

1. The Petitioner may pay into Court at the Vancouver registry, the sum of \$100,000 USD (the "Money").

2. Upon the Petitioner paying the Money into Court, his liability with respect to the Money will be extinguished.

The Petitioners' application is made pursuant to Rule 48 of the *Rules of Court* .

At the hearing of this Petition will be read the Affidavit of Douglas Welder #1 sworn June ____, 2007, a copy of which is served herewith.

The facts upon which this Petition is based are as follows:

The Parties

1. The Petitioner was at all material times a barrister and solicitor carrying on the practice of law in Kelowna, British Columbia.
2. The Respondent International Fiduciary Corp, S.A. ("IFC"), is a Virginia corporation which is also incorporated in Belize, which has its principal offices at 1655 North Fort Myer Drive, Suite 700, Arlington, Virginia, and additional offices at 1101 Pennsylvania Avenue NW, Suite 600, Washington, D.C. and in Miami, Florida.
3. By Order of the U.S. District Court, Eastern District of Virginia, Alexandria Division, pronounced January 19, 2007, Roy M. Terry Jr., Esq., a Virginia bankruptcy lawyer practicing at the firm of DuretteBradshaw PLC, Attorneys and Counsellors at Law, having an address at Main Street Centre, 20th floor, 600 East Main Street, Richmond Virginia, was judicially appointed as receiver over the business and assets of the Respondent IFC.
4. The Respondent Knight Capital Corporation ("KCC") is a Nevada corporation whose registered office is at Suite 440, 1555 East Flamingo Road, Las Vegas, Nevada.
5. The Respondent Denise Anstey is a businessperson who resides at 233 Royal Crest View, Calgary, Alberta, and is represented in this matter by Douglas Holl Professional Law Corporation, 301, 615-3rd Avenue SW, Calgary, Alberta.
6. The Respondent Dennis Hall is a British Columbia resident with an address for delivery at 4th floor, 555 West Georgia Street, Vancouver BC.
7. The Respondents whose names are unknown to the Petitioner are:
 - a. all those persons who invested funds in an investment program allegedly offered by IFC and its representatives; and,
 - b. the beneficial owner of the funds at issue, as alleged by Mr. Malcolm Stevenson.

Background

8. The issues upon which arise the necessity to seek interpleader relief are substantially described in BCSC Action No. B961691, Vancouver Registry, *Hall v McCandless and Welder* and which is a Class Action (the "Class Action").
9. The Class Action has only recently been commenced and the hearing concerning certification has not yet been scheduled. No Defences have yet been filed.
10. Mr. Malcolm Stevenson is alleged therein to be one of the promoters of an investment program operated by IFC which is described as a fraud and Ponzi Scheme.
11. The Petitioner has known Mr. Stevenson for some time prior to the matters alleged in the Statement of Claim.
12. In November 2006 and May 2007, Mr. Stevenson caused certain moneys to be deposited directly into the Petitioner's trust account by electronic means, to be forwarded as directed by him for investment in an IFC investment program.
13. This Petition concerns disposition of some of the moneys remaining in the Petitioner's trust account.

The Trust Transactions

14. Between November 21 and 24, 2007, Mr. Stevenson caused a total of \$230,000.00 USD to be wired directly to the Petitioner's trust account for purposes of investment in an IFC investment program through the vehicle of KCC.
15. On November 28, 2007, at the direction of Mr. Stevenson, the Petitioner wired \$229,898.76 USD to the account of IFC at the United Bank in Virginia.
16. On May 7, 2007, Mr. Stevenson caused a further \$129,940.00 USD to be directly deposited into the Petitioner's trust account.

17. The Petitioner also met with Mr. Stevenson on May 7, 2007, at which time he was instructed to and did disburse \$29,940.00 USD of the funds deposited.
18. During that meeting and in correspondence, the Petitioner was instructed to disburse the \$100,000.00 USD remaining in his trust account (the "Remaining Trust Funds") at least in part to Ms. Denise Anstey on terms that she would return and confirm that she had kept confidential all documents relating to her investment in IFC.
19. The Remaining Trust Funds have not been disbursed.

The Competing Claims

20. Ms. Anstey has retained counsel and is demanding the disbursement to her of the Remaining Trust Funds.
21. In the Class Action commenced May 3, 2007, Mr. Dennis Hall, purporting to represent the class of investors in IFC who are resident in British Columbia and who retained either the Petitioner or another named solicitor, has asserted *inter alia* a trust interest in all funds invested in IFC through the solicitors on the grounds that they are proceeds of a fraud and Ponzi scheme.
22. Both the B.C. Securities Commission and the U.S. Securities and Exchange Commission have commenced proceedings asserting that the IFC investment program is a fraud and a Ponzi scheme.
23. In the matter of *United States Securities and Exchange Commission v. International Fiduciary Corp, S.A., Daniel Eric Byer, Malcolm Cameron Boyd Stevenson and Preston David Pinkett II*, U.S. District Court, Eastern District of Virginia, Alexandria Division, Civil Action No. 1:06-CV-1354, a receiver was appointed on January 19, 2007 over the business and assets of IFC (the "Receiving Order").
24. The Receiving Order includes a term which, on its face, freezes all IFC investor funds and all assets of IFC, of Mr. Stevenson, or of any of the other named principals of IFC, wherever those assets may be located.

25. Finally, Mr. Stevenson has asserted that the beneficial owner of the funds deposited into the Petitioner's trust account on May 7, 2007, is an individual apparently named "Wilber" apparently associated with a company called Amazon Capital which allegedly has no relation to IFC and which is allegedly situate in Europe.

26. The Petitioner does not claim any beneficial interest in the Remaining Trust Funds and seeks to pay the Remaining Trust Funds into Court.

The Petitioner estimates that the application will take 1 hour.

DATED June 15th, 2007.



Solicitor for the Petitioner

**ENDORSEMENT ON ORIGINATING PROCESS FOR SERVICE
OUTSIDE BRITISH COLUMBIA**

The Petitioner claims the right to serve this Petition on the Respondents outside of British Columbia pursuant to Rule 13(1)(a) of the *Rules of Court*, B.C. Reg. 221 on the ground that, pursuant to section 10 of the *Court Jurisdiction and Proceedings Transfer Act*, S.B.C. 2003, c. 28, this proceeding:

- (a) is brought to enforce, assert, declare or determine proprietary or possessory rights in property in British Columbia that is movable property;
- (c)(i) is brought to interpret, rectify, set aside or enforce any deed, will, contract or other instrument in relation to movable property in British Columbia;
- (e)(i) concerns contractual obligations, and the contractual obligations, to a substantial extent, were to be performed in British Columbia;
- (f) concerns restitutionary obligations that, to a substantial extent, arose in British Columbia;
- (g) concerns a tort allegedly committed in British Columbia; and/or,
- (h) concerns a business carried on in British Columbia.



D. Welder #1
June 14, 2007

S-074148

No. _____
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

DOUGLAS WELDER

PETITIONER

AND:

**INTERNATIONAL FIDUCIARY CORP. S.A.,
KNIGHT CAPITAL CORPORATION, DENISE ANSTEY,
DENNIS HALL and PERSONS WHOSE NAMES ARE
UNKNOWN TO THE PETITIONER**

RESPONDENTS

A F F I D A V I T

I, DOUGLAS WELDER, Barrister and Solicitor, of 200-586 Leon Avenue, in the City of Kelowna, in the Province of British Columbia, MAKE OATH AND SAY AS FOLLOWS THAT:

1. I am the Petitioner herein, have been personally involved in the subject matter of the trust funds subject of this Petition and as such have personal knowledge of the matters and facts hereinafter deposed to save and except where stated to be on information or belief and where so stated I verily believe those matters and facts to be true.
2. I have read the facts set out in the Petition herein and say to the best of my knowledge and belief that they are true.

3. The issues upon which arise the necessity to seek interpleader relief are substantially described in BCSC Action No. B961691, Vancouver Registry, *Hall v. McCandless and Welder* and which is a Class Action (the "Class Action"). Now produced and shown to me and marked Exhibit "A" to this my affidavit is a true copy of the Writ of Summons and Statement of Claim in the Class Action. No Defences have yet been filed. The Class Action has only recently been commenced and no date has yet been set for the certification hearing.
4. Mr. Malcolm Stevenson is alleged in the Class Action to be one of the principals of an investment program operated through International Fiduciary Corp., S.A. ("IFC") which is described as a fraud and *Ponzi* Scheme.
5. I have known Mr. Stevenson for some time prior to the matters alleged in the Statement of Claim. In November 2006 and later he caused, I am informed by him, certain moneys to be deposited directly into my trust account by electronic means and which I understood were to be forwarded as directed by him for investment in IFC. This affidavit concerns disposition of some of the moneys remaining in my trust account.
6. On November 20, 2006, Mr. Stevenson sent me an email. Now produced and shown to me and marked Exhibit "B" to my Affidavit is a true copy of that email.
7. Between November 21 and 24, 2006, a total of \$230,000.00 USD was wired directly to my trust account.
8. I, on the instructions of Mr. Stevenson, opened file no. 4073 "Knight Capital Corporation re: IFC".
9. I received a fax and enclosures from Mr. Enrique Toscano on November 28, 2006 and now produced and shown to me and marked Exhibit "C" to this my Affidavit is a true copy of the fax and enclosures.
10. I received a copy of a Knight Capital Members Agreement made as of September 1, 2006 referred to in the Direction & Estoppel Certificates, a true copy of which is now produced and shown to me and marked Exhibit "D" to this my Affidavit.

11. On November 28, 2006, I wired \$229,898.76 (\$230,041.24 before bank charges) to the account of IFC at the United Bank in Virginia. Now produced and shown to me and marked Exhibit "E" to this my Affidavit are true copies of the wire transfer confirmation sheets.
12. On April 26, 2007, I received an email from Mr. Stevenson. Now produced and shown to me and marked Exhibit "F" to this my Affidavit is a true copy thereof. I note that Denise Anstey mentioned therein is one of the individuals mentioned in Exhibit "C".
13. On April 27, 2007, I received an email from Mr. Toscano. Now produced and shown to me and marked Exhibit "G" to this my Affidavit is a true copy thereof. I note that the funds are said to be from Mr. Stevenson and are to be, in part, disbursed to Ms. Anstey.
14. On April 30, 2007, I received an email from Mr. Stevenson. Now produced and shown to me and marked Exhibit "H" to this my Affidavit is a true copy thereof. I note that the funds are to be disbursed, in part, on Mr. Toscano's direction.
15. On May 7, 2007, \$129,940.00 USD was directly deposited into my trust account. Now produced and shown to me and marked Exhibit "I" to this my Affidavit is confirmation thereof from TD Canada Trust.
16. On May 7, 2007, I met with Mr. Stevenson and, *inter alia*, he instructed me to disburse the funds in part to Ms. Anstey on Mr. Toscano's instruction, on terms that all documents as to her investment in IFC would be returned and her promise that those documents had not been sent elsewhere. Now produced and shown to me and marked Exhibit "J" to this my Affidavit is a true copy of my notes from that conversation.
17. On May 7, 2007, I disbursed, in accord with my conversation with Mr. Stevenson, \$29,940.00 USD of the funds deposited as follows:
 - (a) \$7,500.00 USD to Mr. Gerald Schmidt;
 - (b) \$16,994.00 USD (then representing \$18,500.00 CDN) to Mr. Randy Moat; and,
 - (c) the balance of \$5,445.70 USD to Ms. Irene Stevenson.

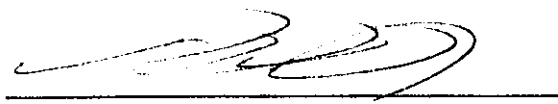
18. Now produced and shown to me and marked Exhibit "K" to this my Affidavit is a true copy of my trust ledger for file no. 4073 printed on May 11, 2007.
19. There remains \$100,000.00 USD (the "Remaining Trust Funds") in my trust account for file no. 4073.
20. On May 7, 2007, I received a fax and email from Mr. Toscano. Now produced and shown to me and marked Exhibits "L" and "M" respectively to this my Affidavit are true copies thereof including the enclosures which I understand relate in some way to Ms. Anstey's investment in IFC.
21. Now produced and shown to me and marked Exhibit "N" to this my Affidavit is a true copy of the Release of All Claims form which I drafted on the instructions of Mr. Stevenson and Mr. Toscano.
22. Ms. Anstey retained counsel. Now produced and shown to me and marked collectively Exhibit "O" to my Affidavit are true copies of emails from her counsel, Mr. Holl, dated May 8, 10, 14 and 17, 2007, respectively.
23. Now produced and shown to me and marked collectively Exhibit "P" to this my Affidavit are true copies of email to and from Mr. Holl dated June 5 and 6, 2007
24. Now produced and shown to me and marked Exhibit "Q" to this my Affidavit is a true copy of a Temporary Order and Notice of Hearing pronounced by the B.C. Securities and Exchange Commission on November 1, 2006. The Temporary Order has been extended and the hearing dates have been postponed most recently to October 2007.
25. Now produced and shown to me and marked Exhibit "R" to this my Affidavit is a true copy of a Litigation Release issued by the U.S. Securities and Exchange Commission on December 5, 2006.
26. Now produced and shown to me and marked Exhibit "S" to this my Affidavit is a true copy of an "Order directing Appointment of Receiver over..." IFC pronounced by the United States District Court for the Eastern District of Virginia on January 19, 2007.

27. Now produced and shown to me and marked Exhibit "T" to this my Affidavit is an email that I received as a result of an enquiry I made of Mr. Stevenson as to the beneficial ownership of the trust deposit of May 7, 2007, and of which the Remaining Trust Funds constitute a part. Mr. Stevenson told me that the funds came 'from Europe'. I have no idea who "Wilber" is or whether, in light of the allegations of fraud referred to in this Affidavit, what Mr. Stevenson told me is true or false as to the beneficial ownership of the funds.

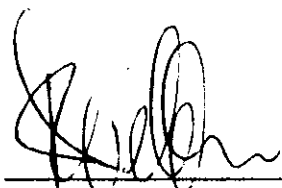
28. I am advised by my counsel, Jack Webster Q.C., that it is reasonably arguable that if the allegations made by the Plaintiffs in the Class Action, by the B.C. Securities and Exchange Commission, and by the U.S. Securities and Exchange Commission, are found to be true, then the Remaining Trust Funds may be proceeds of the Ponzi scheme alleged, and if so, might be beneficially owned by the Plaintiffs or other investors, vested in the Receiver of IFC or otherwise frozen by the Order of the U.S. District Court.

29. I do not claim any beneficial interest in the Remaining Trust Funds, I am not colluding with any claimant of the Remaining Trust Funds and am prepared to pay the Remaining Trust Funds into Court or to dispose of them in whatever other way this Honourable Court may direct.

SWORN BEFORE ME at the City of
Kelowna ~~Vancouver~~, in the Province of British
Columbia this 14th day of June, 2007.



ROGER M. MAGE Commissioner
BARRISTER & SOLICITOR
for taking Affidavits within British Columbia
2nd Floor - 1674 Bentram Street
Kelowna, BC V1Y 9G4
Ph (250) 763-3343 Fax (250) 763-9524



DOUGLAS WELDER