IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

CAUSE NO: FSD 375 OF 2024 (DDJ)
CAUSE NO: FSD 119 OF 2025 (DDJ)

Neutral Citation Number: [2025] CIGC (FSD) 101

IN THE MATTER OF SECTION 124 OF THE COMPANIES ACT (AS AMENDED AND REVISED)

IN THE MATTER OF PETROSAUDI INTERNATIONAL (IN OFFICIAL LIQUIDATION)

AND IN THE MATTER OF PETROSAUDI OIL SERVICES LIMITED (IN OFFICIAL LIQUIDATION)

Before:	The Hon. Justice David Doyle
Appearances:	Peter Sherwood and Tom Stuart of Carey Olsen for the Applicant, Mr Tarek Obaid. David Quest KC, Peter Hayden and Laura Stone of Mourant Ozannes (Cayman) LLP for the Respondents
Heard:	16 October 2025
Decision:	16 October 2025
Draft Judgment circulated:	17 October 2025
Judgment delivered:	23 October 2025

Determination of a summons to set aside a winding up order and a summons to set aside a supervision order

JUDGMENT

Introduction

1. On Thursday 16 October 2025 I dismissed two summonses. It was indicated on behalf of the unsuccessful party that an appeal would be considered. I have a 3 week trial commencing on Monday and noting the need for reasons for my decisions to be provided as soon as possible I now provide these brief reasons.

The proceedings in FSD 375 of 2024

2. By petition dated 16 December 2024 (the "Petition"), Angela Barkhouse as official liquidator of Bridge Global Absolute Fund SPC (in liquidation) ("Bridge Global" or "Petitioner") applied for an order restoring PetroSaudi International Limited ("PSI" or the "Company") to the register of companies and for its subsequent winding up. The Petitioner nominated Angela Barkhouse and Toni Shukla as joint official liquidators. The Petitioner said it had contingent claims against the Company which exceeded US$1,830,000,000 and which were likely to exceed the amounts held by the Company (paragraph 131 of the Petition). The Petitioner added that it had potential causes of action independently against the Company and other entities within the PetroSaudi Group, as well as officers and/or former officers (including Tarek Obaid) of the Company and other entities within the PetroSaudi Group, and others, including, but not limited to, breach of contract, breach of trust, dishonest assistance, knowing receipt, unlawful means conspiracy and unjust enrichment (paragraph 132 of the Petition). The Petitioner said it was a contingent creditor of the Company. It sought the winding up order on two grounds, just and equitable (the need for investigation) and insolvency.

3. The Petitioner believed that the Company was one of several companies used by wrongdoers (including Tarek Obaid) to misappropriate approximately US$7,780,000,000 from the 1Malaysia Development Berhad ("1MDB") and its sister company, SRC International Sdn Bhd, with

approximately US$4,500,000,000 unaccounted for. The Petitioner says that this fraud has been called "the world's greatest financial scandal". This may now have been surpassed by the recent announcement that US$15 billion dollars has been seized in respect of the Prince Holding Group and Chen Zhi.

4. The Petitioner said that PSI, through its subsidiaries, appears to hold valuable assets. These assets comprise monies paid by way of an arbitration award. The monies (some US$327,000,000) are said to be due to an indirect, but wholly owned subsidiary, PetroSaudi Oil Services (Venezuela) Ltd ("PSOVL"), a company incorporated in Barbados. The monies are currently held by the National Crime Agency in the United Kingdom following a prohibition order having been made in aid of proceedings brought against PSOVL by the Department of Justice ("DoJ") in the United States of America ("USA").

5. It is said that on 28 August 2024, Tarek Obaid ("Mr Obaid") was sentenced to 7 years imprisonment by the Swiss Federal Court in connection with the fraud and he and his accomplice, Patrick Mahony, were ordered to pay approximately US$1,780,000,000 in damages to 1MDB (US$1,830,000,000 less US$82,000,000 previously paid back). It is added that it is understood that Mr Obaid is currently appealing the conviction.

The previous orders

6. On 9 January 2025, Kawaley J made a restoration order in respect of PSI "on the papers without the need for an oral hearing."

7. On 21 January 2025, Kawaley J made on order that the requirement for the Petitioner to serve the Petition and verifying affidavits, any notice of hearing on the Company and advertisement be dispensed with. Kawaley J also ordered that the Petition "shall be determined administratively, on the papers without the need for an oral hearing" (the "Directions Order").

8. On 21 January 2025, Kawaley J also made an order appointing joint provisional liquidators ("JPLs") of the Company with power to take control of any of the Company's subsidiaries. On 25 April 2025 the JPLs gave notice of their appointment to the last known registered office of the

Company and on 28 April 2025 notice of their appointment as JPLs was provided in the Cayman Islands Gazette and became public knowledge.

9. On 6 May 2025, Kawaley J made an order (the "Winding Up Order") that the Company be wound up pursuant to section 92 (d) and 92 (e) of the Companies Act and appointed Angela Barkhouse and Toni Shukla as joint official liquidators ("JOLs") of the Company. Kawaley J made the Winding Up Order *ex parte* without notice to the Company or its sole directors "administratively, on the papers without the need for an oral hearing" as recorded in one of the recitals to the Winding Up Order.

10. All sides acknowledge that it was extraordinary to make the Winding Up Order *ex parte* "on the papers". Mr Quest KC who appears for the JOLs says that such extraordinary order was justified. Mr Sherwood who appears for Mr Obaid, said to be the sole director of PSI and its beneficial owner, says that the Winding Up Order was not justified.

The proceedings in FSD 119 of 2025

11. By petition dated 7 May 2025 Angela Barkhouse and Toni Shukla acting in their capacity as joint voluntary liquidators ("JVLs") of PetroSaudi Oil Services Limited (in voluntary liquidation) ("PSOS") applied for an order that the voluntary winding up of PSOS be placed under the supervision of the court and the JVLs be appointed as the joint official liquidators of PSOS.

12. By order made on 12 May 2025 (the "Supervision Order") Kawaley J having been "satisfied that this matter is suitable for disposal on the papers without the need for an oral hearing" ordered that the liquidation of PSOS shall be continued under the supervision of the court and the JVLs were appointed as joint official liquidators of PSOS.

<u>The Summonses</u>

13. By summons dated 11 June 2025 in FSD 375 of 2024 Mr Obaid applied for an order that the Winding Up Order and the appointment of the JOLs be set aside and that the Petition be listed for hearing in open court and on notice to the board of the Company.

14. By summons dated 11 June 2025 in FSD 119 of 2025 Mr Obaid applied for an order that the Supervision Order be set aside.

15. On 16 June 2025, the Petitioner filed and served notice of change of attorney, with Mourant Ozannes (Cayman) LLP being appointed in place of Baker & Partners.

The hearing on 16 October 2025

16. At the hearing on 16 October 2025 I heard arguments on jurisdictional issues and with the consent of the parties the 16 October 2025 hearing was also treated as the *inter partes* return date hearing of the Petition.

17. After hearing a full day of arguments on 16 October 2025 I dismissed the two summonses and indicated I would provide my reasons for doing so as soon as possible. I now give my reasons.

Jurisdictional issues

18. I deal first with the jurisdictional issues. Mr Sherwood raised two main jurisdictional arguments. The first, which he described as his "Primary Argument", was that Kawaley J had no jurisdiction to make a winding up order on an *ex parte* basis without notice to the Company acting by its board. He added that the Winding Up Order was therefore liable to be immediately set aside. His second argument, which he described as his "Secondary Argument" was that Kawaley J had no jurisdiction to make an *ex parte* without notice winding up order on an interim basis, with the order liable to be set aside at a subsequent *inter partes* return date that complies with all of the legislative requirements as to notice and other formalities.

19. Mr Sherwood placed reliance on section 18 of the Grand Court Act (2015 Revision) ("GCA") and *HSH Cayman 1 GP Ltd v ABN AMRO Bank NC* 2010 (1) CILR 14 and various provisions of the Companies Act (2025 Revision) (the "Companies Act") and the Companies Winding Up Rules ("CWR") in respect of the scheme for winding up a company and also on the Financial Services Division User Guide and Grand Court Rules ("GCR").

20. Mr Quest KC for the JOLs argued that Kawaley J did have jurisdiction to make the Directions Order and the subsequent Winding Up Order and asked the court to note that there had been no challenge to the Directions Order.

21. Mr Quest referred to Order 24 rule 1(2) of the CWR which provides that the general provisions of GCR Order 9 shall apply to every petition presented under the CWR. Order 9 rule 4 (3) of the GCR provides that "Unless the Court otherwise directs, a petition which is required to be served on any person must be served on the person not less than 14 days before the day fixed for the hearing of the petition." Mr Quest submitted that Kawaley J otherwise directed by the Directions Order and had jurisdiction to dispense with service of the Petition. Mr Sherwood submitted in effect that this jurisdiction related only to the time for service rather than actual service. Mr Quest relied on the judgment of Kawaley J in *Real Estate and Finance Fund (dissolved)* (FSD unreported judgment 24 August 2022) at [44]-[46] as an accurate statement of the law including the observation that "GCR Order 9 confers a broad discretion on the Court to give directions in relation to service and to dispense with service" ([45]). Mr Quest also fairly and properly brought to my attention [12] where Kawaley J stated "I did not lightly dispense with the need to serve the Petition and advertisement." I accepted Mr Quest's submissions that Kawaley J had the jurisdiction to make the Directions Order and the subsequent Winding Up Order.

22. There can be no doubt that the Grand Court has a wide jurisdiction in respect of winding up orders (see sections 91, 92 and 95 of the Companies Act). Section 92 of the Companies Act gives the court jurisdiction to wind a company up in the circumstances specified in that section such as the inability to pay debts or where it is just and equitable to wind a company up. Section 95 of the Companies Act includes a jurisdiction to make "any other order that it thinks fit." I entirely accept that in the ordinary course of events a winding up order will only be made on notice to the target company and in open court. But sometimes extraordinary circumstances justify making orders in extraordinary ways. Kawaley J, a very experienced commercial judge, was obviously satisfied that it was appropriate to make the Winding Up Order in the way in which he made it. What he did was a truly extraordinary exercise of the jurisdiction but in my judgment he had jurisdiction to make such an order in the way in which he did.

23. Section 18 (1) of the GCA provides that "Subject to this or any other law, the jurisdiction of the Court shall be exercised in accordance with any Rules made under the [Act]". The GCA must be

read in the light of and subject to the Companies Act. I have already referred to the provisions of the Companies Act which gives the Grand Court a wide jurisdiction to make winding up orders.

24. Moreover I think that *HSH Cayman* turns on its own particular facts and circumstances. There has also been a subsequent rule change. CWR Order 1 rule 4 (IA) now applies GCR Order 2 rule 1 (1) to the CWR. *HSH Cayman* concerned the lack of an adequate verifying affidavit and the need to state the true identity of the nominated liquidators. The complaints before me principally concern the judge's decision to proceed *ex parte* and determine the issues before him on the papers. The judge had jurisdiction to make the Directions Order (which is not challenged) and the subsequent winding up order. I take on board, of course, the importance of compliance with the rules as emphasised by Chadwick J in *HSH Cayman* but jurisdiction is one thing, compliance with the rules another.

25. To show the width of the statutory jurisdiction to make winding up orders I refer to *Lancefield v Lancefield* [2002] BPIR 1108 where Neuberger J, as he then was, held that the English court had power "in an appropriate case, to order of its own motion the winding up of a company without a petition before it" (page 1111).

26. Neuberger J relied upon section 122 of the Insolvency Act 1986 of England and Wales which sets out the circumstances in which a company may be wound up in, so far as is material, similar terms to section 92 of the Companies Act. Neuberger J did not doubt the width of the jurisdiction but at page 1112 added "I think it would require a thoroughly exceptional case before the court would even consider making a winding-up order in relation to a company where there is no petition." This exceptional *Lancefield* jurisdiction has been exercised in subsequent cases including *Re Graico Property Co Ltd (in admin.)* [2016] EWHC 2827 (Ch); [2017] B.C.C 15 a case which arose in the administration context. I appreciate the context of *Lancefield* and *Graico* was very different to the context presently before the court but the legal jurisdictional principle holds good in the present context. In the context of the case before me, provided the fundamental principles of justice and fairness are observed, the tail of the secondary rules cannot be allowed to wag the primary statutory jurisdictional dog.

27. In my judgment, even though Kawaley J had jurisdiction to make the order he did, fairness and justice required that Mr Obaid be given an opportunity at an *inter partes* hearing to challenge the

making of the *ex parte* Winding Up Order. Mr Obaid has now had an opportunity to put evidence and arguments before the court in opposition to the Winding Up Order. He has had his day in open court.

Mr Obaid's challenge to the continuation of the Winding Up Order

28. Mr Obaid's challenge to the continuation of the Winding Up Order was put forward on four main grounds:

(1) the Petitioner's lack of standing;

(2) the debt is disputed, insolvency and the need for an investigation are not made out;

(3) the JOLs do not meet the independence requirement;

(4) failures in respect of full and frank disclosure and fair presentation.

29. I considered the written and oral submissions presented to the court together with all the evidence placed before the court.

The Petitioner's standing

30. In my judgment the Petitioner had standing.

31. The Petitioner identified at paragraphs 132 and 133 of the Petition its standing as a contingent creditor indicating that it had claims exceeding US$1,830,000,000 and various causes of action including breach of trust, dishonest assistance, knowing receipt and unjust enrichment.

32. Mr Quest in his oral submissions stated that the claims would include:

(1) knowing receipt by PSI of assets transferred in breach of fiduciary duty;

(2) dishonest assistance by PSI in stripping out assets from Bridge Global; and

(3) unjust enrichment of PSI at the expense of Bridge Global of assets in excess of $2 billion.

33. Mr Sherwood relying on *GFN Corporation Limited* 2009 CILR 650 (CICA) submitted that regardless of whether a petitioning creditor may be able to demonstrate that there are grounds to wind up a company it must first demonstrate on the balance of probabilities that it is a creditor.

34. Mr Quest was right to remind me that *GFN* was decided when section 96 of the Companies Law (2007 Revision) only made reference to "creditor". The law was changed in 2009 and section 94 (1)(b) of the Companies Law (2009 Revision) expanded those who may make an application by way of a petition for the winding up of a company to include "any creditor or creditors (including any contingent or prospective creditor or creditors." The word "contingent" was thereby introduced.

35. Mr Sherwood next relied upon my judgment in *Shinshun Holdings* 2023 (1) CILR 473 and highlighted my comment at [152] that "The Petitioner must prove, on a balance of probabilities, that it is a "contingent creditor"."

36. In my judgment the Petitioner in the case presently before me has proved, on a balance of probabilities, that it is a contingent creditor and that it had a standing to present the Petition.

37. Based on the evidence before me the Petitioner plainly has claims which are sufficient to establish standing in the circumstances of this case (see *Atom Holdings* 2023 (2) CILR 106 and *Aubit International* (FSD unreported 17 October 2023) at [25] to [27]). There was sufficient before the court to support the standing of the Petitioner as a contingent creditor of the Company.

Disputed debt/insolvency and need for an investigation

38. On the evidence I was also satisfied that there was plainly a need for an investigation. It is well established (and Mr Sherwood sensibly accepts this) that the need for an investigation can be a free-standing ground for a winding up order (See [35] of *Aubit International*). The reasons for the need for investigation were outlined at paragraphs 135 to 137 of the Petition and at paragraph 70 of the Petitioner's skeleton argument dated 31 January 2025 put before Kawaley J. They were

elaborated upon by Mr Quest before me on 16 October 2025. In my judgment there is a compelling need for an investigation in the circumstances of this case.

39. Mr Sherwood relied on *Baosheng Media Group Limited* (FSD unreported judgment 30 October 2024) and my acceptance at [66] of a submission that this self-standing ground is not "a free for all". He said in view of all the other investigations continuing worldwide there is no need for a further investigation. I reject that submission. The circumstances of this case cry out for a full investigation into the affairs of PSI, and for any wrongdoers to be brought to justice.

40. Having decided in favour of the Petitioner on the need for an investigation I do not need to go on to determine the insolvency ground or issues in respect of "disputed debt" and do not do so.

41. Mr Quest in his skeleton argument dated 9 October 2025 (at paragraph 56) and in his oral submissions referred to the well-known ability for a company to be wound up on the just and equitable ground if it is established that there has been a justifiable loss of confidence in management, for example on account of serious misconduct or serious mismanagement of the affairs of the company by the directors or majority shareholders. Although the just and equitable ground is relied upon in the Petition on the basis of the need for an investigation I could not find any reference in the lengthy Petition to the "loss of confidence" allegation and I was not referred to any specific paragraphs where this allegation was pleaded. I therefore say no more about it other than making the obvious but important point that normally a petitioner can only rely on the grounds clearly pleaded in the Petition.

The independence point

42. I was satisfied that the JOLs did meet the independence requirement. The conflict that will arise if the JOLs of Bridge Global file a proof of debt in the PSI liquidation can be dealt with by the appointment of a conflict liquidator, if and when such conflict arises.

43. In his detailed skeleton argument dated 9 October 2025 Mr Sherwood submitted that the JOLs faced a "serious conflict of interest" in respect of their two main tasks which Mr Sherwood said would be (1) to take control of the "US Litigation" (including taking control of PSOSVL) when the JOLs

are "effectively sat on both sides of the US Litigation" and (2) to adjudicate on their own proof of debt, acting in a quasi-judicial capacity.

44. During the hearing I indicated in respect of the second submission that the proof of debt point could be dealt with by the appointment of a conflict liquidator and Mr Quest agreed, commenting that "the JOLs cannot mark their own homework".

45. I found Mr Sherwood's first submission in respect of the "US Litigation" much more difficult to understand. I do not accept that the JOLs are "effectively sat on both sides of the US Litigation." The JOLs are not acting for 1MDB or the DoJ in the "US Litigation". As the JOLs of PSI they will be acting to protect the best interests of PSI and its relevant stakeholders. I do not think that a reasonable and informed stakeholder would regard the appointment of the JOLs in the circumstances of this case as unduly problematic or that a stakeholder would have reasonable grounds for objecting to the professional practitioners in question in this case.

46. Mr Sherwood during his oral submissions submitted in effect that the independence of Angela Barkhouse was tainted because she was "appointed by 1MDB to Brazen Sky" and the DoJ in the USA are "acting for 1MDB" and any money would go back to them.

47. I am reminded of the wise words of Parker J in *CW Group Holding Limited* (FSD unreported judgment 3 August 2018) at [68] and [69] to the effect that professional officeholders who act as officers of the court normally act in "the best interests of all of the company's creditors and stakeholders, irrespective of who sought the appointment."

48. Mr Sherwood prayed in aid paragraph 25 of the first affidavit of Anthony Kerman, sworn on 11 June 2025 and filed on behalf of Mr Obaid. In that paragraph (which is full of hearsay) Mr Kerman says "The US Proceeding was brought by the DoJ and is ongoing. I am informed by PSOSVL's U.S. Counsel that, during a telephone call, Counsel for the DoJ confirmed that the US Proceeding was initiated at the instigation of 1MDB and that, should the DoJ be successful, the recovered funds (or a portion thereof) would be distributed to 1MDB".

49. Mr Quest submitted that if the proceedings were successful in the USA the funds would be forfeited and the JOLs will not get anything out of that. If the proceedings are unsuccessful then PSOSVL would benefit from the release of funds subject to other claims. It appears that in such

circumstances the interests of the JOLs of PSI are in opposition to the DoJ in the proceedings in the USA.

50. To be frank I did not fully understand Mr Sherwood's oral submissions on independence. Mr Sherwood referred to a one page note in respect of *Hadar Fund Limited (in liquidation)* 2013 (2) CILR Note 4 and the need for the appearance of impartiality. It is not sufficient that the practitioners are honest and capable. I understood the relevant law. I had endeavoured to outline it in *Global Fidelity Bank Ltd (in voluntary liquidation)* (FSD unreported judgment 20 August 2021), including extracts from the full judgment in *Hadar*.

51. Nothing that Mr Sherwood brought to the court's attention led me to the conclusion that the position or relationships of the JOLs was capable of impairing the appearance of independence or if it was that it was sufficiently material to this liquidation that a fair-minded and informed stakeholder could reasonably object to the appointment of the JOLs on the lack of independence ground. In my judgment on an objective analysis no reasonable perception of lack of independence has been established. I took into account the views of Mr Obaid as persistently put before the court by Mr Sherwood on his behalf but none of them persuaded me, on the facts and circumstances of this case, that the JOLs failed to meet the independence requirement, save and except in respect of the proof of debt point which, if it arises, can be dealt with by the appointment of a conflict liquidator in the usual way.

Full and frank disclosure and fair presentation

52. In *Wang v Credit Suisse* (FSD unreported judgment 8 April 2022) I endeavoured to outline the relevant law in respect of the duty to make full and frank disclosure of material facts in *ex parte* applications and noted at [32(1)] that it was linked to fair presentation.

53. In *Raier v Correa* (FSD unreported judgment 9 June 2023) I emphasised at [13] the importance of applicants for judicial relief on an *ex parte* basis to make full and frank disclosure of all material facts and make a fair presentation of the case and at [20] stated that "An aggressive, over-zealous, one-sided, unbalanced approach is not appropriate."

54. Each case, of course, must be dealt with on its own facts and circumstances applying the relevant legal principles.

55. I was not impressed with the way in which the Petitioner progressed the Petition before Kawaley J. Once the appointment of the JPLs became public in April 2025 the Petitioner should have fairly pointed out to the court that there was no longer any valid reason to proceed *ex parte* and that notice should be given to the former registered office and the director of the Company and they should be given an opportunity to contest the Petition in open court. They failed to do that. They failed also to point out to the court the potential conflict if a proof of debt on behalf of Bridge Global was to be lodged in the PSI liquidation proceedings. These were serious failings but not so serious that this court should set the Winding Up Order aside. It is in the interests of justice that the Winding Up Order be continued.

Conclusion

56. Having carefully considered the evidence and arguments placed before the court I had no hesitation in dismissing the summons and continuing the Winding Up Order.

57. It was for these reasons that I dismissed the summons in FSD 375 of 2024.

The Supervision Order in FSD 119 of 2025

58. Mr Sherwood sensibly recognised that if the court was against him and declined to set aside the Winding Up Order this must mean that the court was of the view that the Petitioner had standing and that the JOLs were properly appointed and in such circumstances the summons to set aside the Supervision Order must also fail. Accordingly, as it was not pressed and as I could see no grounds upon which it should be granted, I dismissed the summons in FSD 119 of 2025 also.

Costs

59. Any application for costs should be made within 14 days by way of concise (no more than 5 pages) written submissions and any concise written submissions in reply (no more than 3 pages) within 10 days thereafter. I am minded to decide any contested costs issues on the papers.

Order

60. The attorneys should email a draft Order to my PA before 3pm on Wednesday, 22 October 2025 reflecting the dismissal of both summonses.

David Doyle

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THE HON. JUSTICE DAVID DOYLE
JUDGE OF THE GRAND COURT