

1 IN THE GRAND COURT OF THE CAYMAN ISLANDS
2 HOLDEN AT GEORGE TOWN
3 FINANCIAL SERVICES DIVISION
4

Cause No: FSD 18/2012

5
6 IN THE MATTER OF THE COMPANIES LAW (2011 REVISION)
7 AND IN THE MATTER OF TRIKONA ADVISORS LIMITED
8



9 BETWEEN:

ARC CAPITAL LLC
&
HAIDA INVESTMENTS LIMITED

PETITIONERS

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15 AND:

TRIKONA ADVISORS LTD.

RESPONDENT

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21 Appearances:

Mr. Guy Cowan of Campbells on behalf of
the Petitioners

Ms. Sarah Dobbyn of Stuarts on behalf of
the Company, Trikona Advisors Ltd.

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27 Before:

The Hon. Mr. Justice Charles Quin

28 Heard:

17th July 2012

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EXTEMPORE RULING

32 1. Counsel on behalf of the Company applies for an adjournment of the hearing date
33 of the 22nd and 23rd of August 2012. These are also the dates set for the hearing of
34 the Petitioners' application for Joint Provisional Liquidators, as well as the hearing
35 of the Company's application dated the 23rd March 2012 for a stay of these

1 proceedings, and its application dated the 13th April 2012 for an Order dismissing
2 the Petition.

3 2. Counsel for the Company argues that there is a hearing in the United States on the
4 17th September 2012 and it has been extremely difficult for the Company to be in a
5 position to participate in parallel proceedings in two jurisdictions, and, accordingly,
6 applies for an adjournment of the hearing set for the 22nd and 23rd of August 2012.

7 3. In addition, counsel for the Company submits that those instructing her have
8 informed her that the Company is currently in advanced stages of a possible buyout
9 of the Petitioner's shares. Accordingly, an adjournment would give the Company
10 sufficient time to explore, and hopefully put together, an acceptable buyout offer to
11 the Petitioners.

12 4. In response to these grounds, I begin by noting that it was the Company's former
13 attorneys, Harneys, that formally requested that the hearing of the Company's
14 applications be set for the 22nd and 23rd of August 2012.

15 5. As a result of the representations of the Company's former attorneys, the Listing
16 Officer for the Grand Court set the Company's Summons down for the hearing on
17 the 22nd August 2012.

18 6. Paragraph 38(ix) of my Judgment dated the 9th March 2012 directed that the stay
19 application and the Company's application be listed for hearing on the first
20 available date after the 19th April 2012. Accordingly, the Company has had five
21 months to make an acceptable buyout offer to the Petitioners and still has five
22 weeks before the hearing to consider its position regarding a possible buyout.

1 7. Having heard from both counsel, I can find no prejudice to the Company, should
2 the hearing go ahead on the 22nd August 2012.

3 8. I have some sympathy for counsel for the Company, as she has candidly admitted
4 that her client's US attorneys had not provided her with a supporting affidavit. In
5 this regard, it is disappointing that the Company's US attorneys have been unable to
6 provide the necessary material to ground the Company's application for the
7 adjournment.

8 9. Taking all the foregoing facts into consideration, I can find no good reason for the
9 hearing, set for the 22nd August 2012, not to go ahead. I re-state that the dates of the
10 22nd August 2012 and the 23rd August 2012 have been set down for almost three (3)
11 months. In all the circumstances of this case, I consider that this is a matter that
12 should be heard expeditiously.

13 10. For these reasons, I reject the Company's application for an adjournment of the
14 hearing on the 22nd August 2012 and make the following directions:

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16 i. That by no later than 4:00 p.m. on the 31st July 2012 the Company
17 and/or APL must file and serve evidence in support of:

18 a) APL's Summons dated the 23rd March 2012 seeking a stay of
19 the Petition ("the Stay Application");

20 b) APL's Amended Summons dated the 17th July 2012 seeking a
21 dismissal of the Petition or, in the alternative, an order to strike

1 out the Petition as an abuse of the process of the Court, or in
2 the alternative, an order providing for the purchase of the
3 Petitioners' shares in the Company pursuant to s.95(3)(d) of the
4 Companies Law (2011 Revision) ("the Strike Out
5 Application"); and

6 c) The Company's Summons dated the 2nd April 2012 seeking a
7 validation order ("the Validation Application").

8 ii. That by no later than 4:00 p.m. on the 31st July 2012 the Petitioners
9 must file and serve any evidence in support of their Summons dated the
10 28th March 2012 seeking the appointment of Joint Provisional
11 Liquidators ("the PL Application").

12 iii. That the Petitioners must file and serve any evidence in response to the
13 Stay Application, to the Strike Out Application, and to the Validation
14 Application by 4:00 p.m. on the 10th August 2012.

15 iv. That APL must file and serve any evidence in response to the PL
16 Application by 4:00 p.m. on the 10th August 2012.

17 v. That skeleton arguments are to be filed and exchanged by 4:00 p.m. on
18 the 17th August 2012.

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vi. That the hearing of the Stay Application, the Strike Out Application, the Validation Application and the PL Application, shall take place on the 22nd and 23rd August 2012.

vii. Costs in the Petition.

Dated this the 17th July 2012



**Honourable Mr. Justice Charles Quin
Judge of the Grand Court**