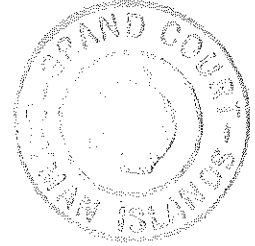


IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

CAUSE NO. FSD 27 OF 2013 - AJJ

BEFORE THE HON MR JUSTICE ANDREW J. JONES QC
IN CHAMBERS, 24 NOVEMBER 2014



IN THE MATTER OF THE COMPANIES LAW (2013 REVISION)

AND IN THE MATTER OF HERALD FUND SPC (IN OFFICIAL LIQUIDATION)

ORDER FOR DIRECTIONS

UPON THE APPLICATION OF Primeo Fund (in official liquidation) (Primeo) by summonses dated and filed on 13 and 30 October 2014 respectively (together, the Primeo Summonses)

UPON THE APPLICATION OF Michael Pearson in his capacity as Additional Liquidator (the Additional Liquidator) of Herald Fund SPC (in official liquidation) (Herald) by summons dated and filed on 7 November 2014 (the Summons)

AND UPON HEARING Leading Counsel for the Additional Liquidator and Leading Counsel for Primeo and Counsel for Reichmuth & Co., a member of Herald's liquidation committee

AND UPON READING the Sixth Affidavit of Michael Pearson dated 19 November 2014 including Exhibit MP-6

IT IS HEREBY ORDERED BY CONSENT THAT:-

I The December Redeemer Issue

1. The Court direct a hearing on the issue of whether section 37(7)(a) of the Companies Law (2013 Revision) (the Companies Law) applies in relation to the participating non-voting shares (the December Shares) which form the subject of redemption requests submitted to Herald by shareholders including Primeo (the December Redeemers) for the redemption day 1 December 2008 and which shares were redeemed on 1 December 2008 but in respect of which redemption moneys were not paid to the relevant December Redeemer (the December Redeemer Issue).

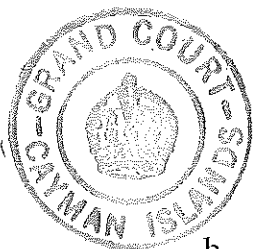
Representation

2. The December Redeemer Issue shall be adjudicated as an *inter partes* proceeding pursuant to Order 11, rule 3 of the Companies Winding Up Rules.
3. The following parties shall be appointed as representatives of the classes of investors in Herald in respect of the December Redeemer Issue, the Court being satisfied that the respective classes of investors have a sufficient communality of interest:
 - a. Primeo shall be appointed as representative of the December Redeemers and those shareholders who submitted redemption requests to Herald for a redemption day prior to 1 December 2008 and which shares were redeemed (the KYC Shares) but in respect of which redemption moneys were not paid due to outstanding "Know Your Client" and/or other documentation (KYC Redeemers); and
 - b. the Additional Liquidator shall be appointed as representative of all contributories who are not December Redeemers or KYC Redeemers,

(collectively, the **December Redeemer Representative Parties**).
4. The costs of the December Redeemer Representative Parties in respect of the determination of the December Redeemer Issue at first instance, including the costs of Leading Counsel, shall be paid out of the assets of Herald as an expense of the liquidation, such costs to be agreed with the Additional Liquidator, or in default of such agreement, taxed on the indemnity basis.
5. Each December Redeemer Representative Party shall provide updates to any member of the class of parties whom it represents and who has notified it that they wish to receive updates as to the progress of the proceedings in which they are being represented. For the avoidance of doubt, the December Redeemer Representative Parties are not required to include any privileged information in such updates. Anyone to whom information is being provided by virtue of this paragraph shall give a written undertaking to the Court to keep the same strictly confidential to itself and its own legal advisors and to use it only for the purpose of proceedings to resolve the December Redeemer Issue.

Directions for the determination of the December Redeemer Issue

6. Primeo shall argue that s.37(7)(a) does not apply to the December Shares or the KYC Shares.



7. The Additional Liquidator shall argue that s.37(7)(a) applies to the December Shares or the KYC Shares.
8. Primeo shall file and serve its Points of Claim in respect of the December Redeemer Issue by 1 December 2014.
9. The Additional Liquidator shall file and serve its Points of Defence, if any, by 19 December 2014.
10. The December Redeemer Representative Parties shall file an agreed statement of facts exhibiting all documents which they consider relevant to the December Redeemer Issue by 12 January 2015.
11. Primeo shall serve written submissions by 6 February 2015.
12. The Additional Liquidator shall serve written submissions in response by 6 March 2015.

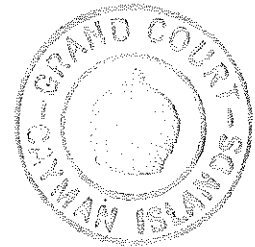
II The Rectification Issues

13. The Court direct a hearing on the issues of:
 - a. whether the Net Asset Values (the NAVs) determined pursuant to Herald's Articles of Association during the period from 24 March 2004 to 10 December 2008 in respect of each Separate Class of Participating Non-Voting Shares issued by Herald are not binding upon Herald by reason of "fraud or default" within the meaning of Section 112 of the Companies Law and Order 12, rule 2(1) of the Companies Winding Up Rules; and
 - b. whether Section 112 of the Companies Law and/or Order 12, rule 2(1) of the Companies Winding Up Rules apply so as to require or empower the Additional Liquidator of Herald to rectify Herald's register of members

(together, the **Rectification Issues**).

Representation

14. The Rectification Issues shall be adjudicated as an *inter partes* proceeding pursuant to Order 11, rule 3 of the Companies Winding Up Rules.



15. The following parties shall be appointed as representatives of the classes of investors in Herald in respect of the Rectification Issues, the Court being satisfied that the respective classes of investors have a sufficient communality of interest:

- a. Primeo shall be appointed as representative of the class of investors arguing that the Rectification Issues should be answered in the negative;
 - b. the Additional Liquidator shall be appointed as representative of the class of investors arguing that the Rectification Issues should be answered in the affirmative
- (collectively, the **Rectification Issues Representative Parties**).

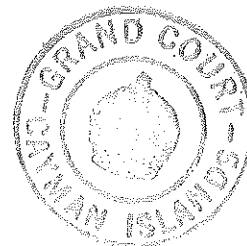
16. The costs of the Rectification Issues Representative Parties in respect of the determination of the Rectification Issues at first instance, including the costs of Leading Counsel, shall be paid out of the assets of Herald as an expense of the liquidation, such costs to be agreed with the Additional Liquidator, or in default of such agreement, taxed on the indemnity basis.

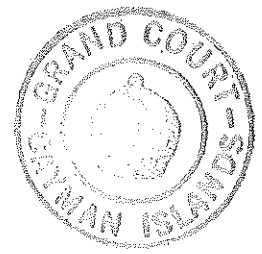
17. Each Rectification Issues Representative Party shall provide updates to any member of the class of parties whom it represents and who has notified it that they wish to receive updates as to the progress of the proceedings in which they are being represented. For the avoidance of doubt, the Rectification Issues Representative Parties are not required to include any privileged information in such updates. Anyone to whom information is being provided by virtue of this paragraph shall give a written undertaking to the Court to keep the same strictly confidential to itself and its own legal advisors and to use it only for the purpose of proceedings to resolve the Rectification Issues.

Directions for the determination of the Rectification Issues

18. Primeo shall argue that:

- a. the Net Asset Values (the NAVs) determined pursuant to Herald's Articles of Association during the period from 24 March 2004 to 10 December 2008 in respect of each Separate Class of Participating Non-Voting Shares issued by Herald are binding upon Herald within the meaning of Section 112 of the Companies Law and Order 12, rule 2(1) of the Companies Winding Up Rules; and
- b. Section 112 of the Companies Law and/or Order 12, rule 2(1) of the Companies Winding Up Rules do not apply and the Additional Liquidator is not required or





empowered to rectify Herald's register of members.

19. The Additional Liquidator shall argue that:

- a. the Net Asset Values (the NAVs) determined pursuant to Herald's Articles of Association during the period from 24 March 2004 to 10 December 2008 in respect of each Separate Class of Participating Non-Voting Shares issued by Herald are not binding upon Herald by reason of "fraud or default" within the meaning of Section 112 of the Companies Law and Order 12, rule 2(1) of the Companies Winding Up Rules; and
- b. Section 112 of the Companies Law and/or Order 12, rule 2(1) of the Companies Winding Up Rules do apply and the Additional Liquidator is required or empowered to rectify Herald's register of members.

20. Primeo shall file any evidence upon which they intend to rely by 19 December 2014.

21. The Additional Liquidator shall file any evidence in response by 23 January 2015.

22. Primeo shall file any evidence in reply by 6 February 2015.

23. The Rectification Issues Representative Parties shall file a statement of agreed facts and a statement in respect of facts which are not agreed (if any) by 6 March 2015.

24. The Rectification Issues Representatives Parties shall have liberty to file further evidence in response to the statement of facts which are not agreed, such evidence to be filed by 6 March 2015.

25. Primeo shall serve written submissions by 20 March 2015.

26. The Additional Liquidator shall serve written submissions in response by 10 April 2015.

III Lodging written submissions and hearing date

27. All written submissions in respect of the December Redeemer Issue and the Rectification Issues shall be lodged with the Court by 15 May 2015.

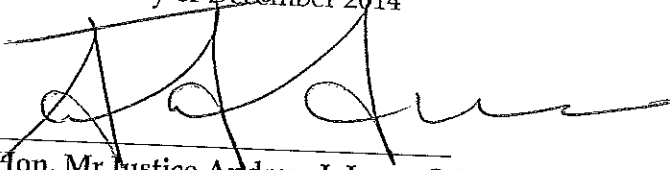
28. The hearing of the December Redeemer Issue and the Rectification Issues is set down for 1 to 5 June 2015.

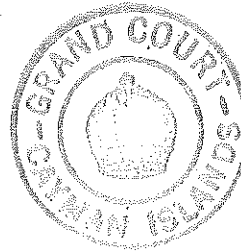
IV Further Directions

29. Liberty to apply.
30. No order as to Primeo's Summonses save as to paragraph 31 below.
31. Primeo and Herald's costs of and occasioned by both the Additional Liquidator's Summons and the Primeo Summonses be paid out of the assets of Herald as an expense of the liquidation, Primeo's costs to be agreed with the Principal Liquidators, or in default of such agreement, taxed on the indemnity basis.
32. That the making of any order on paragraphs 1(c) and 2 of the Additional Liquidator's Summons be adjourned until after the determination of the Rectification Issues.

DATED the 24th day of November 2014

FILED the 2nd day of December 2014


The Hon. Mr Justice Andrew J. Jones QC
JUDGE OF THE GRAND COURT



THIS Order was filed by Walkers, Attorneys at Law for the Additional Liquidator whose address for service is that of their said attorneys, 190 Elgin Avenue, George Town, Grand Cayman KY1-9001.