



IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

62
CAUSE NO: FSD OF 2018 ()

IN THE MATTER OF SECTION 86 OF THE COMPANIES LAW (2018 REVISION)

AND

IN THE MATTER OF SHAHIN II FINANCE COMPANY (SPV) LIMITED



PETITION



To the Grand Court

This humble petition (the "**Petition**") of Deutsche Bank Trust Company Americas of 60 Wall Street – 16th Floor, MS NYC60-1630, New York, New York, 10005, acting solely in its capacity as Indenture Trustee (the "**Indenture Trustee**" or the "**Petitioner**") for the Noteholders (as defined below) issued by Schahin II Finance Company (SPV) Limited (the "**Issuer**"), at the direction of a majority of the Noteholders (as defined below), shows that:

Introduction

- 1 The object of this Petition is to seek the sanction of the Court pursuant to section 86 of the Companies Law (2018 Revision) (the "**Companies Law**") to a proposed Scheme of Arrangement (the "**Scheme**") between the Issuer and the holders of the Notes (the "**Noteholders**").
- 2 A copy of the Scheme shall be exhibited to an affidavit made by the Indenture Trustee, which shall be filed with this Honourable Court.
- 3 This Petition is consented to and supported by the Issuer.

This Petition was presented by Maples and Calder, attorneys for the Petitioner, whose address for service is PO Box 309, Ugland House, Grand Cayman, KY1-1104, Cayman Islands. (Ref: CJM/MCL/ 1738653.1/54439846)

The Issuer

- 4 The Issuer was incorporated in the Cayman Islands as an exempted company with limited liability on 6 March 2012 (registration number 266840).
- 5 The registered office of the Issuer since incorporation is at Codan Trust Company (Cayman) Limited, Cricket Square, Hutchins Drive, PO Box 2681, Grand Cayman, KY1-1111, Cayman Islands.
- 6 As at the date of this Petition the authorised share capital of the Issuer is US\$1.00 divided into 1 share of par value US\$1.00. As at the date of the Petition the amount of the share capital of the Issuer paid up or credited as paid up is US\$1.00.
- 7 The Issuer is a special purpose vehicle that was incorporated for the purpose of issuing US\$750 million of senior secured notes with a coupon of 5.875% with a final legal maturity date of 25 September 2023 (the "**Notes**") pursuant to the terms of the Indenture (as defined herein).
- 8 In this regard, the objects for which the Issuer was established are restricted and are more particularly set out in its Memorandum of Association dated 6 March 2012. In particular, the primary object of the Issuer is:

"To authorise, issue, offer, sell and deliver notes (the "Notes") pursuant to an indenture (as such indenture may be amended or supplemented from time to time, the "Indenture") between, inter alia, [the Issuer], Dleif Drilling LLC and Deutsche Bank Trust Company Americas (the "Indenture Trustee"), to enter into and perform contracts, undertakings, arrangements and transaction of any kind in furtherance of, and as contemplated in the Indenture, including the various Transaction Documents (as such term is defined in the Indenture) to which the Company is a party and generally to perform its obligations and exercise its rights under the Indenture."

The Notes

- 9 The Notes were issued pursuant to the terms of an Indenture dated 28 March 2012 among the Issuer, Dleif Drilling LLC as the Owner ("**Dleif**") and the Petitioner in its capacity as Indenture Trustee, Registrar, Paying Agent and Transfer Agent (the "**Indenture**").¹
- 10 The Indenture is governed by the laws of the State of New York.
- 11 There is currently US\$651.5 million plus interest outstanding under the terms of the Notes. The Notes are in default as explained at paragraph 17 below.
- 12 The Notes are secured and are limited recourse to the Collateral described in paragraph 16, below.
- 13 Dleif, an entity incorporated under the laws of Delaware is the owner of a drill ship named the *Sertão* (the "**Vessel**"), which is a Marshall Islands flagged ultra-deep water drillship.
- 14 At the time of the Note issuance, the Vessel was chartered to Petróleo Brasileiro S.A – Petrobras ("**Petrobras**"), a company organised under the laws of Brazil, pursuant to an agreement among Petrobras, Dleif, Schahin Petróleo e Gás S.A. (the "**Operator**") and Schahin Engenharia S.A. ("**Engenharia**") dated 25 July 2008 (as amended, the "**Petrobras Charter**").
- 15 The Vessel was operated by the Operator pursuant to the terms of (a) an agreement between Petrobras, the Operator, Dleif and Engenharia dated 25 July 2008 (as amended, the "**Petrobras Services Agreement**") and (b) an agreement between the Operator, the Issuer and the Indenture Trustee dated 28 March 2012 (the "**Operator Agreement**").

Security for the Notes

- 16 The Notes are secured by the Collateral, which includes, among other things:
- 16.1 The right to receive the payments under the Petrobras Charter. In this regard:

¹ Terms used herein and not otherwise defined shall have the meanings ascribed to them in the Indenture.

- (a) Dleif fiduciarily assigned and granted a first priority lien in all of its rights under the Petrobras Charter pursuant to a fiduciary assignment agreement among Dleif, the Operator, the Indenture Trustee and Deutsche Bank S.A. – Banco Alemão dated 28 March 2012.
- (b) Pursuant to an assignment agreement titled *Autorização de Cessão Fiduciária, em Garantia, de Direitos Creditórios* dated 17 February 2012 between Petrobras, Dleif, the Operator and the Indenture Trustee, amounts due to the Owner under the Petrobras Charter would be paid into the Offshore Revenue Collection Account.
- (c) The Offshore Revenue Collection Account is a US dollar denominated bank account, established and maintained by the Indenture Trustee in the name of Dleif.
- (d) Pursuant to the Indenture, the Issuer granted security over the Offshore Revenue Collection Account to the Indenture Trustee for the benefit of the Noteholders. The Indenture Trustee (acting in such capacity for the benefit of the Noteholders) has sole control rights over the Offshore Revenue Collection Account pursuant to the terms of the Indenture.

16.2 The Vessel and spare parts. In this regard:

- (a) Dleif entered into a first preferred ship mortgage dated 28 March 2012 (the "**Vessel Mortgage**") granting security over the Vessel and spare parts in favour of the Indenture Trustee.
- (b) The Vessel Mortgage is governed by the laws of the Republic of the Marshall Islands ("**RMI**").
- (c) The Vessel Mortgage is registered on the shipping registry in RMI.

16.3 The membership interest in Dleif held by its parent Black Oil Drilling LLC ("**Black Oil**"). In this regard Black Oil Drilling entered into a New York-law governed pledge

agreement dated 28 March 2012 (the "**Pledge Agreement**") pledging its membership interests in Dleif to the Indenture Trustee for the benefit of the Noteholders.

- 16.4 Pursuant to the Indenture, the Issuer granted security over substantially all of its bank accounts, including the Operations Account, to the Indenture Trustee. The Trustee has sole control rights on the Operations Account pursuant to the terms of the Indenture.

Default under the Notes

- 17 Various Events of Default have occurred under the Indenture, including, among others:
- 17.1 On 17 April 2015, Black Oil filed for *recuperação judicial* (judicial reorganization proceedings) in Brazil which constituted an Event of Default under the Indenture as set forth in clause (f) of the definition of "Events of Default" and triggered an Early Amortization Period under section 8.2 of the Indenture that accelerated the Issuer's obligation to repay the amounts due under the Indenture.
- 17.2 On 21 May 2015, Petrobras terminated the Petrobras Charter and Petrobras Services Agreement which constituted an Event of Default under the Indenture as set forth in clause (s) of the definition of "Events of Default".
- 17.3 On 26 June 2015, the Operator was filed for *recuperação judicial* (judicial reorganization proceedings) in Brazil which constituted an Event of Default under the Indenture as set forth in clause (f) of the definition of "Events of Default" and triggered an Early Amortization Period under section 8.2 of the Indenture that accelerated the Issuer's obligation to repay the amounts due under the Indenture.
- 18 As a result of the Events of Default, the Indenture Trustee, at the direction of a majority of the Noteholders and among other actions taken:
- 18.1 Voted Black Oil's membership interest in Dleif pursuant to the Pledge Agreement to replace Milton Taufic Schahin and Salim Taufic Schahin as the managers of Dleif with independent managers on 10 July 2015;

18.2 Terminated the Operator as operator under the Operator Agreement on 18 September 2015; and

18.3 Caused the Vessel to be arrested by the U.K. Admiralty Court on 27 November 2015.

Financial position of the Issuer

19 In addition to the Vessel, the Issuer has liquid assets that consist solely of cash held in the following accounts:

19.1 Cash of US\$2,200,105.79 in the Operations Account;

19.2 Cash of US\$63,275.29 in the Drydock Revenue Reserve Account;

19.3 Cash of US\$7,092,935.91 in the Offshore Revenue Collection Account; and

19.4 Cash of US\$4,250.07 in the Debt Service Reserve Account.

20 The Indenture Trustee (acting in such capacity for the benefit of the Noteholders) has sole control of these accounts pursuant to the terms of the Indenture.

21 The Vessel is currently warm stacked in Tilbury, England. The costs of storing and maintaining the Vessel are generally no less than US\$750,000 per month, plus other corporate, legal and other collateral maintenance costs.

22 Since the termination of the Petrobras Charter, the Vessel has been off contract and the Issuer does not have any income. The monthly operating costs are being paid from the amounts remaining in the Operations Account, and monthly advisor costs are being paid from the Offshore Revenue Collection Account, in each case, at the direction of the majority controlling Noteholder group.

23 The Issuer is therefore cash flow and balance sheet insolvent.

24 The professionals retained by Dleif, or the Indenture Trustee at the direction of a majority of Noteholders, have been unable to secure a purchaser for the Vessel or secure a new contract for it.

Objects and mechanics of the Scheme and the Restructuring

- 25 The purpose of the restructuring is to raise US\$20 million of new financing in order to continue to pay the monthly maintenance costs for the Vessel ("**New Financing**").
- 26 This will allow the Indenture Trustee, acting at the direction of a majority of Noteholders more time either to sell the Vessel or identify and enter into a new contract.
- 27 The New Financing is proposed to be provided by certain of the Noteholders ("**New Lenders**"). The New Financing will rank in priority to the Notes under the terms of the Indenture. The New Financing will be secured by way of first ranking security over the Vessel.
- 28 Pursuant to the Scheme, the Noteholders will agree to amend the terms of the Indenture to permit (a) the issue of new senior ranking notes to the New Lenders in return for the New Financing and (b) the Indenture Trustee to amend the Vessel Mortgage upon majority instruction in order to give the New Lenders first ranking security over the Vessel.
- 29 The Issuer has one class of Scheme Creditor. This comprises the Noteholders.

Orders and Directions

- 30 In accordance with the direction of a majority of Noteholders, the Indenture Trustee intends to make an application for, amongst other things, orders and directions:
- 30.1 that the relevant class of Scheme Creditors affected by the Scheme is that referred to at paragraph 29 above;
- 30.2 that the Indenture Trustee be at liberty to convene a single meeting of the Noteholders (the "**Scheme Meeting**") for the purpose of considering and, if thought fit, approving (with or without modification) the Scheme;
- 30.3 as to the mode of delivery of a scheme document (which includes an explanatory statement and notice of the Scheme Meeting) to, amongst others, the Noteholders and that a record date be set for the purposes of dispatch and for the purposes of voting at the Scheme Meeting; and

30.4 as to the appointment of a chairman of the Scheme Meeting, and for directions that the chairman of the Scheme Meeting should report the result thereof to the Court.

31 That the resolution intended to be put to the Noteholders at the Scheme Meeting is:

"THAT the Scheme of Arrangement, a copy of which has been tabled at this Scheme Meeting, be approved subject to any modification, addition or condition which the Grand Court of the Cayman Islands may think fit to approve or impose which would not directly or indirectly have a material adverse effect on the rights of the Scheme Creditors."

YOUR PETITIONER THEREFORE HUMBLY PRAYS THAT:

- (1) The Scheme may be sanctioned by the Court so as to be binding on each party thereto in accordance with its terms.
- (2) To this end, all necessary inquiries may be made and directions may be made and given.
- (3) Such further or other relief as the Court shall see fit.

Dated the 12 day of April 2018.

Maples and Calder

Maples and Calder

Attorneys-at-Law for the Petitioner

ENDORSEMENT

This Petition has been presented to the Grand Court of the Cayman Islands on the _____ day of _____ 2018 and will be heard by the Grand Court of the Cayman Islands on the 12th day of July 2018 at (a.m.) / 10:00 p.m. in the fore/after noon (or as soon thereafter as the Petition can be heard).

This Petition was presented by Maples and Calder, attorneys for the Petitioner, whose address for service is PO Box 309, Ugland House, Grand Cayman, KY1-1104, Cayman Islands. (Ref: CJM/MCL/738653.1/54439846)