

**IN THE GRAND COURT OF THE CAYMAN ISLANDS  
FINANCIAL SERVICES DIVISION**

**CAUSE NO FSD**

**OF 2020 ( )**

**IN THE MATTER OF THE COMPANIES LAW (2020 REVISION)  
AND IN THE MATTER OF SUPER HARVEST GLOBAL FUND SPC**

**WINDING UP PETITION**



**TO THE GRAND COURT**

The humble Petition of Super Harvest Asset Management Limited, whose registered office is at Maples Corporate Services Limited, PO Box 309, Ugland House, South Church Street, George Town, Grand Cayman, KY1-1104, Cayman Islands (the "**Petitioner**") shows that:

**Introduction**

1. Super Harvest Global Fund SPC (the "**Company**"), is a Cayman Islands segregated portfolio company incorporated on 26 January 2018 with registration number 332207. The registered office of the Company is at Maples Corporate Services Limited, PO Box 309, Ugland House, South Church Street, George Town, Grand Cayman, KY1-1104, Cayman Islands.
2. Pursuant to the Company's Amended and Restated Memorandum and Articles of Association dated 29 June 2018 (the "**M&A**"):
  - (a) the Company's share capital is US\$50,000 divided into:
    - (i) 100 management shares with a par value of US\$1.00 each; and
    - (ii) 49,900,000 participating shares of US\$0.001 par value each; and
  - (b) the Company has issued only one voting, non-participating and non-redeemable share in the capital of the Company of US\$1.00 par value designated as a management share (the "**Management Share**").

3. The Company has one director, Ms Wong Yi Na ("**Ms Wong**"), who was appointed as a director on 6 November 2019.
4. The Register of Members of the Company states that Ms Wong holds the Management Share, which was transferred to her by the Petitioner on 28 November 2019.
5. The segregated portfolios of the Company invest principally in fixed rate senior notes issued by Ping An Securities Group (Holdings) Limited, a company incorporated in Bermuda ("**Ping An**"). Ping An is the ultimate parent company of the Petitioner.
6. The following six segregated portfolios were established by the Company:
  - (a) Super Harvest 90 Days Fixed Income Fund SP;
  - (b) Super Harvest 180 Days Fixed Income Fund SP;
  - (c) Super Harvest 365 Days Fixed Income Fund SP;
  - (d) Super Harvest 365 Days HKD Fixed Income Fund SP;
  - (e) Super Harvest Stable I Fixed Income Fund SP; and
  - (f) Super Harvest Stable II Fixed Income Fund SP,(collectively, the "**Segregated Portfolios**").
7. The Petitioner seeks the winding up of the Company and the appointment of joint official liquidators to manage the Company's affairs on the basis that it is unable to pay its debts as they fall due and is therefore insolvent.
8. Words used herein which are not otherwise defined have the meaning given to them in the IMAs (defined at **paragraph 9** below).

## The Investment Management Agreements

9. The debt which is the subject of this petition (the "**Petition**") arises under the following investment management agreements entered into between the Company (acting for and on behalf of the Segregated Portfolios) and the Petitioner:
- (a) the investment management agreement entered into between the Company (acting on behalf of and for the account of Super Harvest 365 Days HKD Fixed Income Fund SP) and the Petitioner dated 3 July 2018 (the "**365 Days HKD IMA**");
  - (b) the investment management agreement entered into between the Company (acting on behalf of and for the account of Super Harvest 365 Days Fixed Income Fund SP) and the Petitioner dated 8 August 2018 (the "**365 Days IMA**");
  - (c) the investment management agreement entered into between the Company (acting on behalf of and for the account of Super Harvest 180 Days Fixed Income Fund SP) and the Petitioner dated 8 August 2018 (the "**180 Days IMA**");
  - (d) the investment management agreement entered into between the Company (acting on behalf of and for the account of Super Harvest 90 Days Fixed Income Fund SP) and the Petitioner dated 28 January 2019 (the "**90 Days IMA**");
  - (e) the investment management agreement entered into between the Company (acting on behalf of and for the account of Super Harvest Stable II Fixed Income Fund SP) and the Petitioner dated 1 March 2019 (the "**Stable II IMA**"); and
  - (f) the investment management agreement entered into between the Company (acting on behalf of and for the account of Super Harvest Stable I Fixed Income Fund SP) and the Petitioner dated 25 April 2019 (the "**Stable I IMA**"),
- (collectively, the "**IMAs**").
10. Pursuant to clause 2.1 of the IMAs (which is materially the same in each of the IMAs), the Company agreed to appoint the Petitioner and the Petitioner agreed to act as the

discretionary investment manager (the "**Investment Manager**") for each of the Segregated Portfolios.

11. The Petitioner presents this Petition in its capacity as a creditor of the Company, which it is because of the Company's (acting on behalf of and for the account of the Segregated Portfolios) failure to satisfy each of the liabilities owing to the Petitioner under the IMAs (as set out in **paragraph 14** below).

### **Grounds for the Petition**

12. The Petitioner seeks the winding-up of the Company on the basis that it is insolvent pursuant to sections 92(d) and 93(c) of the Companies Law (2020 Revision) (the "**Companies Law**").
13. Pursuant to clause 6.1 of the IMAs (which is materially the same in each of the IMAs), the Petitioner is entitled to receive, and the Company should, on behalf of and for the account of each of the Segregated Portfolios, pay a monthly management fee (the "**Management Fee**") to the Petitioner as follows:
  - (a) the amount of the Management Fee in respect of each calendar month is equal to 2% of one twelfth of the net asset value of the Segregated Portfolio concerned; and
  - (b) the Management Fee shall be deducted from the assets of the Segregated Portfolio concerned and shall accrue and be payable in advance on the first business day of each calendar month.
14. As at 7 July 2020, the Management Fees which had accrued were in the amount of HK\$10,143,904.15 (approximately US\$1,308,831.43), and that amount remained due and owing by the Company to the Petitioner (the "**Debt at 7 July 2020**"). The breakdown of the Debt at 7 July 2020 is as follows:
  - (a) in respect of the 365 Days HKD IMA, the Management Fees which were outstanding amounted to HK\$3,858,566.49 (approximately US\$497,856.94);

- (b) in respect of the 365 Days IMA, the Management Fees which were outstanding amounted to HK\$3,609,399.45 (approximately US\$465,707.82);
  - (c) in respect of the 180 Days IMA, the Management Fees which were outstanding amounted to HK\$1,705,048.59 (approximately US\$219,996.28);
  - (d) in respect of the 90 Days IMA, the Management Fees which were outstanding amounted to HK\$240,861.62 (approximately US\$31,077.51);
  - (e) in respect of the Stable II IMA, the Management Fees which were outstanding amounted to HK\$313,361.33 (approximately US\$40,431.88); and
  - (f) in respect of the Stable I IMA, the Management Fees which were outstanding amounted to HK\$416,666.67 (approximately US\$53,761.00).
15. On 7 July 2020, following the failure by the Company to pay the Debt at 7 July 2020 or any part of it, the Petitioner, through its Hong Kong legal counsel, DLA Piper Hong Kong, served on the Company and its sole director Ms Wong, a statutory demand dated 7 July 2020 under the Hong Kong Companies (Winding Up and Miscellaneous Provisions) Ordinance (the "**HK Statutory Demand**"). The HK Statutory Demand was served by the following methods:
- (a) by ordinary prepaid post addressed to the Company at the Company's Hong Kong address of 18<sup>th</sup> Floor of CITIC Tower, No.1 Tim Mei Avenue, Central, Hong Kong, in accordance with clause 15 (Notice) of the IMAs;
  - (b) by courier addressed to the Company's registered office in the Cayman Islands.
16. On 21 July 2020, the Petitioner, through Walkers, served the HK Statutory Demand on the Company by delivering a copy by hand to the Company's registered office in the Cayman Islands.

## **Insolvency of the Company**

17. As at 31 August 2020, additional Management Fees have accrued, such that the Management Fees which are and remain due and owing by the Company to the Petitioner are in the amount of HK\$12,161,554.15 (approximately US\$1,569,205.33) (the "**Debt at 31 August 2020**"). The breakdown of the Debt at 31 August 2020 is as follows:
- (a) in respect of the 365 Days HKD IMA, the Management Fees which are outstanding amount to HK\$4,358,566.49 (approximately US\$562,385.83);
  - (b) in respect of the 365 Days IMA, the Management Fees which are outstanding amount to HK\$4,508,349.45 (approximately US\$581,712.33);
  - (c) in respect of the 180 Days IMA, the Management Fees which are outstanding amount to HK\$2,095,048.59 (approximately US\$270,324.12);
  - (d) in respect of the 90 Days IMA, the Management Fees which are outstanding amount to HK\$291,561.62 (approximately US\$37,620.20);
  - (e) in respect of the Stable II IMA, the Management Fees which are outstanding amount to HK\$391,361.33 (approximately US\$50,497.35); and
  - (f) in respect of the Stable I IMA, the Management Fees which are outstanding amount to HK\$516,666.67 (approximately US\$66,665.50).
18. As at the date of this Petition, the Company has not paid or satisfied the Debt at 31 August 2020 in full or in part, nor has it made any offer or presented any proposal to secure or compound the same.
19. The Debt at 31 August 2020 remains due and payable to the Petitioner.
20. Based on the Company's failure to pay the Debt at 31 August 2020 or any part of it, the Petitioner believes that the Company is unable to pay its debts and is therefore insolvent and should be wound up, pursuant to sections 92(d) and 93(c) of the Companies Law.
21. In the alternative, it is just and equitable that the Company should be wound up in accordance with section 92(e) of the Companies Law.

## **Nomination of Joint Official Liquidators**

22. The Petitioner nominates Russell Homer of Chris Johnson Associates Ltd, Elizabethan Square, PO Box 2499, 80 Shedden Road, George Town, Grand Cayman KY1-1104, Cayman Islands and Kong Sze Man Simone of Manivest Asia Limited, Units 1405-1407, Dominion Centre, 43 to 59 Queen's Road East, Wan Chai, Hong Kong, for appointment as joint official liquidators of the Company.

### **YOUR PETITIONER THEREFORE HUMBLY PRAYS:**

1. That the Company be wound up in accordance with sections section 92(d) and 223 of the Companies Law.
2. That Russell Homer of Chris Johnson Associates Ltd, Elizabethan Square, PO Box 2499, 80 Shedden Road, George Town, Grand Cayman KY1-1104, Cayman Islands and Kong Sze Man Simone of Manivest Asia Limited, Units 1405-1407, Dominion Centre, 43 to 59 Queen's Road East, Wan Chai, Hong Kong be appointed as joint official liquidators of the Company (the "**JOLs**").
3. The JOLs shall not be required to give security for their appointment.
4. The JOLs shall have the power to act jointly and severally in their capacity as liquidators of the Company.
5. The JOLs shall be authorised to do any acts or things considered by them to be necessary or desirable in connection with the dissolution of the Company and the winding up of its affairs, including but not limited to obtaining recognition of the JOLs and/or their appointment and/or powers in any other relevant jurisdiction and to make applications to the courts of such jurisdictions for that purpose.
6. In addition to the powers set out in Part II of the Third Schedule of the Companies Law, the JOLs be authorised to exercise all the powers set out in paragraphs 1, 2, 4, 7, 8, 10 and 11 of Part 1 of the Third Schedule of the Companies Law and section 110(2) thereof without the further sanction of this Honourable Court.

7. Without limitation to the generality of the powers specified in paragraph 6 immediately above, it is confirmed that the JOLs shall have the power to:
  - (a) bring or defend any action or other legal proceeding in the name and on behalf of the Company and to engage attorneys for such purposes in order to secure the assets of the Company;
  - (b) take all action required consistent with applicable law to carry on the business of the Company so far as may be necessary for its beneficial winding up.
8. No disposition of the Company's property by or with the authority of the JOLs in carrying out their duties and functions and the exercise of their powers under any Order granted pursuant to this Petition shall be voided by virtue of section 99 of the Companies Law.
9. The JOLs be at liberty to appoint attorneys, counsel and professional advisors, whether in the Cayman Islands or elsewhere, as they may consider necessary to advise and assist them in the performance of their duties in accordance with Order 25 of the Companies Winding Up Rules, 2018 (as amended).
10. The Petitioner's costs of and incidental to the Petition shall be paid out of the assets of the Company as an expense of the liquidation, such costs to be taxed on an indemnity basis if not agreed with the JOLs.
11. The JOLs be at liberty to apply.
12. Such further and/or other relief as this Honourable Court deems appropriate.

AND your Petitioner will ever pray etc.

DATED the 22<sup>nd</sup> day of September 2020

*Walkers*

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**WALKERS**  
Attorneys at Law for the Petitioner

**NOTE:** This petition is intended to be served on the following parties by way of service upon their registered offices, or otherwise in accordance with any directions of the Honourable Court:

The Company

## **NOTICE OF HEARING**

TAKE NOTICE THAT the hearing of this petition will take place at the Law Courts, George Town, Grand Cayman, on \_\_\_\_\_ at \_\_\_\_\_ am/pm.

Any correspondence or communication with the Court relating to the hearing of this petition should be addressed to the Registrar of the Financial Services Division of the Grand Court at PO Box 495, Grand Cayman KY1-1106, telephone 345 949 4296.