

IN THE GRAND COURT OF THE CAYMAN ISLANDS

FINANCIAL SERVICES DIVISION

FSD CAUSE NO: OF 2021

IN THE MATTER OF THE COMPANIES ACT (2021 REVISION)

AND IN THE MATTER OF MYTRAVEL 330 LEASING LTD (IN VOLUNTARY LIQUIDATION)



PETITION

To the Grand Court

The humble petition of Elizabeth Galbraith Mackay and Gordon Iain MacRae of Kalo (Cayman) Limited (**Kalo**), PO Box 776, 38 Market Street, Suite 4208, Canella Court, Camana Bay, Grand Cayman, Cayman Islands KY1-9006 (**Petition** and **Petitioners**) as joint voluntary liquidators (**JVLs**) of MyTravel 330 Leasing Ltd (in voluntary liquidation) (**Company**) shows that:

A. Background

1. The Company was incorporated in the Cayman Islands as an exempted company limited by shares on 20 October 2004, with registration number 140921.
2. The Company's registered office is c/o Kalo, PO Box 776, 38 Market Street, Suite 4208, Canella Court, Camana Bay, Grand Cayman, Cayman Islands KY1-9006.
3. The Company's memorandum and articles of association were adopted by special resolution dated 16 December 2004. Pursuant to the memorandum, the objects for which the Company was established are unrestricted.
4. The Company is part of the Thomas Cook Group plc (in compulsory liquidation) (**Thomas Cook Group**), the former British global travel group, which entered into compulsory liquidation proceedings in England in 2019.

5. The Company's sole shareholder is Thomas Cook Airlines Limited (in compulsory liquidation), a company incorporated in England (**Sole Shareholder**). On 23 September 2019, the High Court of Justice, England & Wales (**High Court**), appointed the official receiver as liquidator of the Sole Shareholder (in addition to companies throughout the Thomas Cook Group). Simultaneously, the High Court appointed insolvency practitioners Simon Appell, Alastair Beveridge, Daniel Imison and Benjamin Browne of AlixPartners UK LLP, as special managers (**Special Managers**) of the Sole Shareholder (and other entities), in order to assist the official receiver in carrying out its duties as liquidator.
6. The Company was established to participate in aircraft financing arrangements in relation to four Airbus A330 – 243 aircraft bearing manufacturer's serial numbers 254, 266, 301 and 309.

B. Voluntary Liquidation

7. On 15 January 2021 (**Commencement Date**), the Company was placed into voluntary liquidation pursuant to a written special resolution passed by the Sole Shareholder, pursuant to Section 116(c) of the Act (**Shareholder Resolution**). The Shareholder Resolution was signed by one of the Special Managers as agent of the Sole Shareholder.
8. The Shareholder Resolution also appointed Elizabeth Galbraith Mackay and Gordon Iain MacRae as JVLs, with the power to act jointly and severally.
9. As at the Commencement Date, Thomas Cook Group Management Services Limited, a company incorporated in England, was the sole director of the Company (**Sole Director**).
10. On 18 January 2021, the Sole Director wrote to the JVLs (**Director's Letter**) confirming that:
 - 10.1 a full enquiry into the Company's affairs had been made;
 - 10.2 as a result of its enquiries, it is the Sole Director's belief that the Company will not be able to pay its debts within twelve months from the Commencement Date; and
 - 10.3 the Sole Director is, therefore, unable to provide a declaration of solvency as contemplated pursuant to Section 124 of the Act.

11. The Director's Letter was signed by Rebecca Symondson, for and on behalf of the Sole Director.
12. In compliance with the Companies Winding Up Rules, 2018 (**CWR**), O.13. r.2.:
 - 12.1 on 10 February 2021, the JVLs duly filed a notice with the Registrar of Companies stating that: (i) the Company had been placed into voluntary liquidation by way of a special resolution passed by the Sole Shareholder of the Company; and (ii) Elizabeth Galbraith Mackay and Gordon Iain MacRae were appointed as JVLs of the Company;
 - 12.2 the JVLs filed a signed voluntary liquidators' consent to act on 10 February 2021; and
 - 12.3 on 1 February 2021, a notice of the voluntary winding up was published in the Cayman Islands Gazette.

C. Supervision order

13. The JVLs have not received a declaration of solvency in the prescribed form signed by the Company's Sole Director and, given the Director's Letter, there is no prospect this will be forthcoming. Accordingly, the JVLs are required to apply pursuant to Section 124(1) of the Act, for the voluntary liquidation to be continued under the supervision of this Court.
14. It is also the JVLs' view that the supervision of the Court will facilitate a more effective and expeditious liquidation in the best interests of the Company's contributories and creditors. It will allow the liquidators to carry out any necessary investigations into the Company's affairs and, in particular, enable the orderly wind-down of the Company and payment of distributions to its creditors.
15. Elizabeth Galbraith Mackay and Gordon Iain MacRae are qualified insolvency practitioners (as defined under Section 89 of the Act) and meet the requirements of a qualified insolvency practitioner pursuant to the Insolvency Practitioners' Regulations 2018 (**IPR**). Elizabeth Galbraith Mackay and Gordon Iain MacRae consent to being appointed as joint official liquidators (**JOLs**).

16. On Monday 8 February 2021, the JVLs caused a notice to be sent to the Company's creditors, notifying them of the proposed Petition. The notice required that any responses be provided to the JVLs by 5:00pm Cayman Islands time on Tuesday 16 February 2021.
17. As at the date of this Petition, signed after 5:00pm on Tuesday 16 February 2021, the JVLs have not received any communication from creditors, which gives the JVLs reason to believe that no creditor objects to the appointment of the JVLs as JOLs of the Company.
18. The Petitioners respectfully request that this Petition be heard on the papers.

Your Petitioners therefore humbly pray that:

- (1) The liquidation of the Company be continued under the supervision of the Court pursuant to Section 124(1) of the Act.
- (2) Elizabeth Galbraith Mackay and Gordon Iain MacRae of Kalo (Cayman) Limited, PO Box 776, 38 Market Street, Suite 4208, Canella Court, Camana Bay, Grand Cayman, Cayman Islands KY1-9006 be appointed as JOLs of the Company.
- (3) The JOLs shall have the power to act jointly and severally.
- (4) The JOLs shall not be required to give security for their appointment.
- (5) The JOLs be authorised to take any action as may be necessary or appropriate to take possession, custody and control of the assets, books and records of the Company to the extent that the Company's property is not already in their possession, custody or control.
- (6) In addition to the powers prescribed in Part II of the Third Schedule to Act which are exercisable without sanction of the Grand Court, the JOLs are hereby sanctioned to exercise, on a joint and several basis, the following powers set out in Part I of the Third Schedule to the Act:
 - (a) the power to bring or defend any action or other legal proceeding in the name and on behalf of the Company;

- (b) the power to carry on the business of the Company so far as may be necessary for its beneficial winding up;
- (c) the power to dispose of any property of the Company to a person who is or was related to the Company;
- (d) the power to pay any class of creditors in full;
- (e) the power to make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging themselves to have any claim (present or future, certain or contingent, ascertained or surrounding only in damages) against the Company or for which the Company may be rendered liable;
- (f) the power to compromise on such terms as may be agreed all debts and liabilities capable of resulting in debts, and all claims (present or future, certain or contingent, ascertained or sounding only in damages) subsisting, or supposed to subsist between the Company and a contributory or alleged contributory or other debtor or person apprehending liability to the Company;
- (g) the power to deal with all questions in any way relating to or affecting assets or the winding up of the Company to take any security for the discharge of any such call, debt, liability of claim and to give a complete discharge in respect of it;
- (h) the power to sell any of the Company's property by public auction or private contract with power to transfer the whole of it to any person or to sell the same in parcels;
- (i) the power to engage staff (whether or not as employees of the Company) to assist the JOLs in the performance of their functions; and
- (j) the power to engage attorneys (including Cayman Islands attorneys and attorneys in those jurisdictions where the JOLs consider it necessary to advise and assist the JOLs in the performance of their functions) and other professionally qualified persons to assist the JOLs in the performance of their functions.

- (7) No suit, action or other proceedings shall be proceeded with or commenced against the Company, except with the leave of the Court pursuant to Section 97 of the Act.
- (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 shall be avoided by virtue of Section 99 of the Act.
- (9) The JOLs be entitled to receive remuneration for their services by reference to the time properly given by them and their staff upon the affairs of the liquidation and the hourly rates and the amount of remuneration shall be determined in accordance with the IPR.
- (10) The JOLs be at liberty to meet all disbursements reasonably incurred in connection with the performance of their duties.
- (11) The JOLs fees and expenses be paid out of the assets of the Company in accordance with Section 109 of the Act, the IPR and the CWR.
- (12) The JOLs be at liberty to and do pay their agents, employees, attorneys, solicitors and whomever else they may employ or instruct, remuneration and costs, and for the avoidance of doubt, all such payments shall be made as and when they fall due out of the assets of the Company as expenses of the winding up.
- (13) The costs of and incidental to this Petition shall be paid out of the assets of the Company as an expense of the liquidation.

AND your Petitioners will ever pray, etc.

Dated the 16th day of February 2021.

Collas Crill

Collas Crill
Attorneys-at-Law for the Petitioners