



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

**CAUSE NO. FSD 191 OF 2020 (NSJ)**

**IN THE MATTER OF SECTION 94 OF THE COMPANIES ACT (2021 REVISION)  
AND IN THE MATTER OF .BOX INC.**

**ON THE PAPERS  
10th MARCH 2021  
BEFORE THE HONOURABLE JUSTICE SEGAL**

---

**ORDER**

---

**UPON** the winding up petition presented by DotBox Limited (the "**Petitioner**") dated 25 August 2020 (the "**Petition**") in respect of .Box Inc (the "**Company**")

**AND UPON** the Court considering the orders to be suitable to be disposed of on the papers without the need for an oral hearing

**IT IS ORDERED THAT:**

1. The Petitioner be granted leave to file the amended Petition in the form annexed to this Order (the "**Amended Petition**").
2. Intercap Financial Inc shall file and serve any application to strike out the Amended Petition (the "**Strike Out Application**"), together with supporting evidence, within 5 working days of the filing of the Amended Petition.
3. The Petitioner shall serve any evidence in response to the Strike Out Application within 14 days of the service of the Strike Out Application.
4. The Respondent shall serve any evidence in reply within 7 days of the service of the Petitioner's evidence.

This Order is filed by Ogier, Attorneys-at-Law for the Petitioner, whose address for service is:  
89 Nexus Way, Camana Bay, Grand Cayman KY1-9009, Cayman Islands (MKS/GEL/427378.00001)

5. The Strike Out Application shall be listed for hearing for 1 day on the first mutually agreeable date after 5 April 2021.
6. The proceedings otherwise be stayed pending determination of the Strike Out Application.
7. The Respondent be granted leave to file amended Points of Defence (if so advised) within 14 days of the termination of the stay in paragraph 6 above.
8. Costs in the cause.

Dated the 10th day of March 2021.

Filed the 10th day of March 2021.



---

**THE HONOURABLE JUSTICE SEGAL  
JUDGE OF THE GRAND COURT**

This Order is filed by Ogier, Attorneys-at-Law for the Petitioner, whose address for service is:  
89 Nexus Way, Camana Bay, Grand Cayman KY1-9009, Cayman Islands (MKS/GEL/427378.00001)

Approved as to form and content:



---

**Ogier**  
Attorneys for the Petitioner



---

**Carey Olsen**  
Attorneys for the Respondent

IN THE GRAND COURT OF THE CAYMAN ISLANDS

FINANCIAL SERVICES DIVISION

CAUSE NO. FSD 191 OF 2020 (NSJ)

IN THE MATTER OF SECTION 94 OF THE COMPANIES ACT LAW (2020 REVISION)

AND IN THE MATTER OF .BOX INC.

---

**AMENDED WINDING UP  
PETITION**

---

**TO THE GRAND COURT**

The humble petition of DotBox Limited of 12/F, Daily House, 35-37 Haiphong Road, Tsim Sha Tsui, Kowloon, Hong Kong SAR (the "**Petitioner**") shows that: -

**A INTRODUCTION**

1 The Petitioner presents this petition for the winding up of .Box Inc. (the "**Company**") pursuant to section 92(e) of the Companies Act Law (2020 Revision) (the "**Companies Act Law**") on the grounds that it is just and equitable that the Company be wound up.

**B THE COMPANY**

2 The Company was incorporated under the laws of the Cayman Islands on 12 July 2016 as an exempted company with limited liability and registration number CL-313213.

3 The registered office of the Company is situated at the offices of Harneys Fiduciary (Cayman) Limited, 4<sup>th</sup> Floor, Harbour Place, 103 South Church Street, P.O. Box 10240, Grand Cayman KY1-1002, Cayman Islands.

4 The authorised share capital of the Company is US\$50,000 divided into 50,000 shares of US\$1.00 each.

5 The objects for which the Company was established are unrestricted, and at all material times the Company has had full powers and authority to carry out any objects not prohibited by law

as provided by section 7(4) of the Companies Act Law. The principal object for which the Company was established was to act as a holding company for an internet generic top level domain extension ("**gTLD**"), known as ".box", capable of generating revenue from each domain name using that gTLD (for example as in "www.institution.box")<sup>1</sup>.

6 The current directors of the Company and their respective dates of appointment are as follows:

Name of Director	Date of Appointment	Roles
Mr Edmon Chung (" <b>Mr Chung</b> ")	18 July 2016	Director & Secretary
Mr Jason Chapnik (" <b>Mr Chapnik</b> ")	18 July 2016	Director & Chairman
Mr Mike Lane (" <b>Mr Lane</b> ")	12 February 2019	Director
Mr Josh Brandley (" <b>Mr Brandley</b> ")	19 November 2019	Alternate Director & Chairman for Mr Chapnik

7 At all material times the directors owed to the Company:

- (a) a duty not to put themselves in a position where their interests were in potential conflict with the interests of the Company;
- (b) a duty not directly or indirectly to seek to make a profit out of their position or enable persons or companies related to them to do so without making full and frank disclosure thereof to the Company; and
- (c) a duty to act bona fide in the best interests of the Company and to exercise powers for a proper purpose.

8 The Company was established as a joint venture company between Mr Chapnik and Mr Chung. At all material times from on or about 18 July 2016 until the improper dilution of the Petitioner's shareholding on or about 16 December 2019 (as described at paragraphs 33 to 39 below), the Petitioner held 50% of the total issued shares in the Company, and Intercap Financial Inc. ("**Intercap**") held the remaining 50% of the total issued shares in the Company.

9 From on or about 16 December 2019 and as at the date of this Petition, the Petitioner has held 11.36% of the total issued shares in the Company and Intercap has held 88.64% of the total issued shares in the Company.

---

<sup>1</sup> gTLDs are the domain name extensions for website addresses, for example ".com", ".info", ".net" and ".asia".

10 The Petitioner believes that the Company is solvent and upon liquidation there will be a surplus for shareholders.

## **C THE FORMATION OF THE COMPANY AND THE SHAREHOLDERS**

### ***The Petitioner***

11 The Petitioner was incorporated in Hong Kong on 8 June 2016 for the purpose of holding the investment in the Company:

(a) The Petitioner is a wholly owned direct subsidiary of Namesphere Holdings Ltd ("**Namesphere**"), a company incorporated in Hong Kong which operates as a front-end provider of internet registry services;

(b) Namesphere is an indirect wholly owned subsidiary of DotAsia Organisation Limited ("**DotAsia**"); and

(c) DotAsia is a not for profit company limited by guarantee incorporated in Hong Kong on 12 September 2006 for the purpose of operating the gTLD (i.e. website address) ".Asia", and promoting internet development and adoption throughout Asia. DotAsia is the parent company of its corporate group (the "**DotAsia Group**").

12 Mr Chung is the Chief Executive Officer and a director of DotAsia, a director of Namesphere, and a director of the Petitioner. He has extensive experience and involvement with the Internet Corporation for Assigned Names and Numbers ("**ICANN**") and internet governance both in Asia and globally. Between 2006 and 2010, Mr Chung was an elected member on the ICANN Generic Names Supporting Organization Council. Between 2010 and 2012, he was an elected member on the ICANN At-Large Advisory Committee from the Asia Pacific Region, and between 2006 and 2011 Mr Chung served as an elected member of the Elections Committee of the Hong Kong SAR in the Information Technology Subsector.

### ***Intercap***

13 Intercap is incorporated in Ontario, Canada, and is part of the Intercap corporate group (the "**Intercap Group**") which the Petitioner understands is controlled by Intercap Inc. ("**Intercap Bank**"), a merchant bank based in Toronto, Canada. Until in or around October 2017, Intercap was called Advanced Capital Enterprises Inc.

- 14 The Petitioner understands that Intercap Registry Inc. ("**Intercap Registry**"), which is a Cayman Islands company with its registered office at Harneys Fiduciary (Cayman) Limited, 4<sup>th</sup> Floor, Harbour Place, 103 South Church Street, P.O. Box 10240, Grand Cayman KY1-1002, is a part of and/or affiliated with Intercap Group. Until on or about 27 May 2019, Intercap Registry was called Intercap Holdings Ltd.
- 15 Mr Chapnik is the founder of Intercap Group and is currently the Chairman and Chief Executive Officer of Intercap Bank. He was at all material times a director of Intercap and its controlling mind. At all material times he acted on behalf of Intercap and his state of mind is to be attributed to Intercap.
- 16 Mr Brandley is currently a vice-president of Intercap Bank, and he also manages and controls Intercap Registry.
- 17 The Petitioner will say that once Mr Brandley (as alternate for Mr Chapnik) and Mr Lane were appointed to the Company's Board by Intercap in 2019 each of them acted at the instigation of Mr Chapnik and/or Mr Chapnik procured the board of directors of the Company (the "**Board**") to act as they did as more particularly set out below.

***The Understanding Between the Petitioner and Intercap***

- 18 ICANN is a private non-profit organisation based in California, USA, that coordinates, *inter alia*, the internet's global Domain Name System. This includes the introduction and allocation of new gTLDs.
- 19 In or about April 2012, Mr Chapnik on behalf of Intercap and Mr Chung on behalf of Namesphere and DotAsia agreed to form a joint venture in order to submit applications to ICANN for and operate new gTLDs. At all material times Mr Chapnik and Mr Chung understood and agreed (the "**Understanding**") that:
- (a) Mr Chapnik and Intercap depended on Mr Chung, in view of Mr Chung's experience and expertise with ICANN and its complicated regulatory framework;
  - (b) Ownership of any joint venture vehicle used to hold and operate a gTLD would be split equally between Mr Chung and/or his investment vehicle on the one hand and Mr Chapnik and/or Intercap or another investment vehicle on the other;

- (c) Mr Chung and/or his investment vehicle on the one hand and Mr Chapnik and/or InterCap or his investment vehicle on the other, would each contribute 50% of the start-up capital for any successful gTLD applications;
  - (d) Management and control of any joint venture vehicle used to hold and operate a gTLD would be joint as between Mr Chung and/or his investment vehicle on the one hand and Mr Chapnik and/or his investment vehicle on the other, with both parties appointing a director each to the board of the company; and
  - (e) Mr Chung and/or his investment vehicle on the one hand and Mr Chapnik and/or his investment vehicle on the other would work together in good faith to procure, launch and promote the use of any acquired gTLDs.
- 20 Certain (but not all) of the terms on which the new gTLDs were to be acquired were set out in a partnership agreement (the "**Partnership Agreement**") dated 12 June 2012 between DotAsia and Namesphere on the one hand, and K2 Principal Fund L.P ("**K2**"), an Ontario, Canada based fund affiliated with Mr Chapnik on the other (together with four special purpose vehicles which had been incorporated for the purpose of applying to ICANN for certain gTLDs (together, the "**Holding Companies**")). In or around November 2016, K2 assigned its rights under the Partnership Agreement to InterCap.
- 21 The operation and governance of the Holding Companies after the acquisition of the new gTLDs was not governed by the Partnership Agreement but was instead governed by the Understanding between Mr Chapnik and Mr Chung. It had been intended to formalise the Understanding in a shareholders agreement but that did not occur:
- (a) The Partnership Agreement provided that within 60 days of acquiring a new gTLD, the parties to the Partnership Agreement would negotiate in good faith and execute a unanimous shareholders agreement (the "**Shareholders Agreement**") to govern the affairs of the Holding Company operating the new gTLD going forward, and the Shareholders Agreement should include provisions including but not limited to non-competition and non-circumvention; and
  - (b) The Partnership Agreement further provided that until the Shareholders Agreement was executed, no party to the Partnership Agreement was entitled to, among other things, issue any shares, or other securities in the relevant Holding Company or assume any debt on behalf of the Holding Company without the prior written consent of the other parties to the Partnership Agreement, unless to an affiliate.

## **Formation of Company**

- 22 On or about 12 November 2015, a registry agreement for the “.box” gTLD was executed between ICANN and NS1 Limited ("**NS1**"), the Holding Company that had been incorporated pursuant to the Understanding to apply for the ".box" gTLD. At Mr Chapnik's **insistence** **insistence** a new entity was incorporated in the Cayman Islands to hold the “.box” gTLD and substituted as the Holding Company in place of NS1.
- 23 It was a term of the Understanding and/or the Partnership Agreement that, upon the successful acquisition of a new gTLD, the Holding Company, in this case NS1, would be structured to achieve 50/50 ownership between Mr Chung and/or his investment vehicle on the one hand and Mr Chapnik and/or his investment vehicle on the other.
- 24 In accordance with the Understanding and/or the Partnership Agreement the Company was incorporated with 50/50 ownership between Mr Chung and/or his investment vehicle on the one hand and Mr Chapnik and/or his investment vehicle on the other:
- (a) At the time of the Company's incorporation, Mr Chapnik suggested to the Petitioner that he be appointed as Chairman of the Board and that Mr Chung be appointed as director and Company Secretary;
  - (b) The Company's Articles of Association (the "**Articles**") drafted by or on behalf of Mr Chapnik included provisions for the Chairman to have a casting vote at board meetings (Article 28.08) and shareholder meetings (Article 19.11); and
  - (c) The Petitioner consented to this arrangement on the assumption that notwithstanding the designations, each of Mr Chapnik and Mr Chung would exercise their power on the Board jointly.
- 25 The combined effect of these Articles was that disagreements between Board members and/or shareholders would be resolved in favour of Mr Chapnik and/or Intercap as Mr Chapnik holds the casting vote. However, save in exceptional circumstances Mr Chapnik could not exercise that power against Mr Chung's wishes because to do so would violate the Understanding between them.

## D LOSS OF TRUST AND CONFIDENCE BETWEEN THE PETITIONER AND INTERCAP

### *Exclusion of the Petitioner and Mr Chung from Management*

26 Since about 2018, and in breach of the Understanding, Intercap and Mr Chapnik have progressively sought to exclude the Petitioner and Mr Chung from management of the Company.

27 By extraordinary general meeting of the shareholders of the Company dated 12 February 2019, a resolution was passed to: (i) set and fix the number of directors at three; and (ii) appoint Mr Lane, an affiliate of Intercap, as an additional director of the Company. Intercap voted in favour of the resolution. Mr Chapnik used his casting vote in favour of the resolution as the Petitioner voted against the resolution.

28 The shareholder resolution for the appointment of Mr Lane (together with Mr Chapnik and his alternate Mr Brandley, the “**Intercap Directors**”) was passed in derogation or disregard of the Understanding which required such decisions to be made jointly with the Petitioner and Mr Chung and not against their wishes and/or in that the purpose or effect of the resolutions was to deprive the Petitioner and Mr Chung of the agreed joint decision making power and/or the Understanding.

29 Furthermore, the appointment of Mr Lane had the immediate effect that management of the Company was no longer joint between Mr Chapnik (as the nominee of Intercap) and Mr Chung (as nominee of the Petitioner). In every Board meeting after their respective appointments, the Intercap Directors voted together on every board resolution irrespective of any concerns or objections raised by Mr Chung.

30 On 10 February 2020, the Intercap Directors at a Board meeting resolved to name Mr Brandley as the Company's primary contact with ICANN, removing Mr Chung as the primary contact between the Company and ICANN. Mr Chung opposed his removal and no proper explanation for this change was provided to him.

31 On 11 February 2020, Mr Brandley sent an email to Mr Chung warning him not to communicate about the Company's business:

*"...I am putting you on notice now that if you make any defamatory statements about Intercap or .Box Inc. or any statements that incorrectly characterizes the situation surrounding .Box Inc. or the .box TLD, or any statements that damage our ability to*

*proceed with the business in any way, we will pursue all available remedies against you. Act accordingly."*

32 In passing the resolution to require Mr Chung to cease having contact on behalf of the Company with ICANN, the Intercap Directors on behalf of Intercap acted in disregard of the Understanding which required the business of the Company to be managed jointly.

***Issue of Shares for Improper Purposes***

33 At a Board meeting on 19 November 2019, the Board voted (Mr Brandley and Mr Lane in favour, Mr Chung opposed) to convene a special general meeting for shareholders to consider the following resolutions:

- (a) *"Each of the shareholders of the Company as at the date of the meeting be offered a period of five days in which to subscribe up to 170 (the "**Subscription Amount**") in further shares of the Company at a price of US\$3,000 each;*
- (b) *Following the five day period commencing on the date of the meeting, if a shareholder has not elected to subscribe the full Subscription Amount, the other shareholder shall be offered the opportunity to subscribe for such remaining Subscription Amount; and*
- (c) *The form of application for shares circulated to shareholders in Schedule 3B of the circular be approved."*

34 In procuring the board resolution and in convening an extraordinary general meeting to consider the proposed resolution Mr Chapnik and the Intercap Directors acted in disregard or derogation of the Understanding which required decisions of this kind to be made jointly with the Petitioner and Mr Chung and not against their wishes.

35 On 10 December 2019, the special general meeting took place and the proposed resolutions were passed after Mr Chapnik exercised his casting vote (the Petitioner having voted against the proposed resolution, and Intercap having voted in favour of the proposed resolution).

36 In voting at the extraordinary general meeting on 10 December 2019 in favour of the resolution, Intercap and Mr Chapnik acted in disregard or derogation of the Understanding in that such decisions were to be made jointly with the Petitioner and Mr Chung and not against their wishes and in that the ownership of the Company was agreed to be 50/50 whereas the intention of Intercap was to provide the Intercap Directors with the opportunity of diluting the Petitioner.

37 Further, the resolution for the extraordinary general meeting was proposed by the Board on 19 November 2019 and/or the power to issue shares was exercised by the Board for an improper purpose, namely to dilute the Petitioner's shares below 50% and, in the premises, otherwise than in good faith. The best particulars which the Petitioner is able to give at the date hereof of the facts and circumstances from which the said purpose and absence of good faith is to be inferred are as follows:

- (a) On or about 17 December 2019, Mr Chapnik procured the Company to reject the Petitioner's request to subscribe for its 170 pro rata shares in the Company (the **"Petitioner's Pro Rata Shares"**):
  - (i) On 15 December 2019 the Petitioner informed the Company of its intention to subscribe for the Petitioner's Pro Rata Shares;
  - (ii) On 17 December 2019, Mr Brandley sent an email to the Petitioner indicating that the Board intended to offer the Petitioners' Pro Rata Shares to Intericap;
  - (iii) On 18 December 2019, Mr Brandley sent a further email to the Petitioner alleging that the Petitioner's subscription request in respect of the Petitioners' Pro Rata Shares was deficient and submitted out of time, having been due on 14 December 2019;
  - (iv) On 21 December 2019, Mr Brandley confirmed that the Petitioners' Pro Rata Shares had been issued to Intericap and the Company's register of members had been altered accordingly. In the premises, all 340 new shares issued as part of the share issuance were issued to Intericap;
  - (v) On 13 January 2020, Ogier, the Petitioner and Mr Chung's Cayman Islands attorneys, sent a letter to the Company asserting that the issue of the Petitioners' Pro Rata Shares to Intericap was a breach of the shareholders' resolution passed at the special general meeting held on 10 December 2019 and demanded a rectification of the improper share issuance; and
  - (vi) On 31 January 2020, Harneys, the Cayman Islands attorneys for Intericap and Mr Chapnik, sent a reply letter to Ogier disputing the Petitioner's computation of the time period for subscription and the validity of the subscription form used by the Petitioner.

- (b) The Intercap Directors refused to allow Mr Chung and the Petitioner to subscribe for the Petitioner's Pro Rata Entitlement which would have raised the same amount of cash.
- (c) The capital call and share issue were contrary to the best interests of the Company as:
  - (i) The full quantum of the additional capital sought (US\$1.02 million) was unnecessary and unjustified based on the net present value of the business at the time;
  - (ii) The business plan, in support of which the capital call and share issuance was approved, was deficient insofar as:
    - (A) it had disregarded all of the suggestions advanced by the Petitioner and Mr Chung;
    - (B) it purported to be an independent business plan but was prepared by Mr Lane, an affiliate of Intercap, and suggested that all management functions be transferred to Intercap; and
    - (C) the Board had not considered other non-equity capital raising options, nor did it allow sufficient time to deliberate pricing or other matters relevant to the capital call.
- (d) The Company disregarded the views of the Petitioner and Mr Chung.

38 Following the share issue and the Intercap Directors' refusal to allow the Petitioner to subscribe for the Petitioner's Pro-Rata Shares, the Petitioner's shareholding was reduced from 50% to 11.36% and Intercap's shareholding increased from 50% to 88.64%.

39 In causing shares to be issued by the Company otherwise than on a 50/50 basis and/or in refusing to allow the Petitioner to subscribe for the Petitioner's Pro Rata Shares on 15 December 2019 and/or in taking that decision or procuring or allowing the Intercap Directors to take that decision without agreeing it or consulting with Mr Chung and/or in exercising the power otherwise than for a proper purpose as set out, above Mr Chapnik and Intercap acted in disregard of and/or in breach of the Understanding.

***Sale of the ".box" gTLD proposed by the Intercap Group***

40 On 21 August 2020, the Board at Mr Chapnik's instigation resolved to sell the ".box" TLD (the "**Proposed Sale**") to Intercap Registry, pursuant to the terms of a draft purchase agreement and assignment agreement (the "**Sale Documents**") circulated to board members on 14 August 2020.

41 In voting in favour of the Proposed Sale, in breach of fiduciary duty to the Company, the Intercap Directors are not acting bona fide in the best interests of the Company as:

(a) The first occasion on which the prospect of the Proposed Sale was mentioned to the Petitioner or Mr Chung was the notification of board meeting circulated on 14 August 2020.

(b) The ".box" gTLD is being sold at less than market value:

(i) The US\$300,000 sale price is US\$200,000 less than the value ascribed to the ".box" gTLD in a valuation dated 28 October 2019 and no updated valuation has been acquired;

(ii) The US\$300,000 sale price is US\$2.7 million less than the acquisition price of the ".box" gTLD;

(iii) No marketing process has been undertaken to ascertain what price might reasonably be obtained; and

(iv) The Company has taken no steps to solicit offers from other third parties who might be interested in acquiring the ".box" gTLD.

(c) The Proposed Sale was not negotiated on arm's length terms:

(i) Intercap Registry is an affiliate of Intercap, of which Mr Brandley is the controlling mind; and

(ii) Mr Brandley negotiated the Proposed Sale on behalf of both the Company and Intercap Registry.

(d) The Proposed Sale is contrary to the Understanding and the purpose for which the Company was established (and the terms of the Partnership Agreement and

Understanding) which was to hold and exploit the ".box" TLD for the benefit of both shareholders;

- (e) Following the Proposed Sale, the Company will hold no assets and serve no further purpose; and
- (f) The Board did not convene an extraordinary general meeting to approve the Proposed Sale.

42 In the circumstances outlined above, the Intercap Directors' decision to approve the Proposed Sale was not made for a proper purpose and it was a self-dealing and, accordingly, a breach of fiduciary duty to exercise the power of sale by diverting the only asset of the Company, at an undervalue, for the benefit of Intercap Registry, a related party.

**Sale of the ".box" gTLD by the Intercap Group to its related party**

42A On 26 October 2020, the Cayman attorneys for the Company and Intercap notified the Petitioner's Cayman attorneys that the ".box" TLD "has been assigned from the Company to Intercap Registry" (the "Actual Sale"). Neither the date nor the terms of the Actual Sale, nor any other particulars of the Actual Sale have been disclosed to the Petitioner. 42B In procuring the Actual Sale, in breach of their fiduciary duties to the Company, the Intercap Directors were not acting bona fide in the best interests of the Company for the reasons set out at paragraphs 42(b) to (f) above, and for the following additional reasons:

- (a) The Actual Sale was secretly concluded by the Intercap Directors without further notice to Mr Chung and/or the Petitioner;
- (b) An executed purchase agreement for the Actual Sale has never been disclosed to Mr Chung and/or the Petitioner;
- (c) The Company and the Intercap Directors made no attempts to sell the ".box" TLD to parties other than Intercap Registry; and
- (d) To the extent that Mr Brandley negotiated the Proposed Sale on behalf of both the Company and Intercap Registry as pleaded in paragraph 42(c)(ii) above, there is no documentary evidence of such a negotiation.

42C In the circumstances outlined above, the Intercap Directors' decision to procure the Actual Sale was not made for a proper purpose and it was a self-dealing and, accordingly, a breach of

fiduciary duty to exercise the power of sale by diverting the only asset of the Company, at an undervalue, for the benefit of InterCap Registry, a related party.

## **F GROUND FOR WINDING UP**

43 For the reasons set out above, the Petitioner has irrevocably lost trust and confidence in InterCap and the current management of the Company. The Petitioner considers that it is just and equitable to wind up the Company in circumstances where:

- (a) The InterCap Directors with InterCap have engaged in misconduct and mismanagement including breach of fiduciary duty, including:
  - (i) proposing and approving a sale of the ".box" gTLD for an improper purpose (see paragraphs 40 to 42 above); ~~and~~
  - (ii) procuring the actual sale of the ".box" gTLD for an improper purpose (see paragraphs 42A to 42C above); and
  - (iii) engineering the share issue and capital call for an improper purpose (see paragraphs 33 to 40 above).
- (b) Mr Chapnik and the InterCap Directors have repeatedly acted and procured the Board of the Company to act in disregard of and contrary to the Understanding by:
  - (i) Making decisions otherwise than jointly with Mr Chung and procuring the Board to do so;
  - (ii) Excluding Mr Chung from management of the Company;
  - (iii) Altering the Petitioner's shareholding in the Company from one of equality to a diluted holding of less than 15% (see paragraphs 34 to 39 above); and
  - (iv) Agreeing to dispose of the ".box." gTLD at an undervalue and without agreement of the Petitioner.

## **G RELIEF SOUGHT**

44 In the premises it is just and equitable that the Company be wound up in accordance with section 92(e) of the Companies Act Law.

45 If it is otherwise just and equitable that the Company be wound up, the Petitioner seeks by way of alternative order that:

- (a) Intercap be ordered to sell its shares in the Company to the Petitioner in accordance with section 95(3)(d) of the Companies Act Law at a value to be determined by the Court, if not agreed. The Petitioner will contend that any valuation should be undertaken on the basis of Intercap's original 50% shareholding in the Company; or
- (b) Intercap be ordered to purchase the Petitioner's shares in the Company in accordance with section 95(3)(d) of the Companies Act Law at a value to be determined by the Court, if not agreed. The Petitioner will contend that any valuation should be undertaken on the basis of the Petitioner's original 50% shareholding in the Company; and/or
- (c) Proceedings are authorised to be commenced against Intercap and/or or the Intercap affiliated directors pursuant to section 95(3)(c) of the Companies Act Law.

Your Petitioner~~(s)~~ therefore humbly pray~~(s)~~ that:-

- (1) The Company be wound up in accordance with section 92(e) of the Companies Act Law.
- (2) Alexander Lawson of Alvarez & Marsal Cayman Islands Limited, Flagship Building, PO Box 2507, 2<sup>nd</sup> Floor, 70 Harbour Drive, George Town, Grand Cayman, Cayman Islands, Christopher Kennedy of Alvarez & Marsal Cayman Islands Limited, Flagship Building, PO Box 2507, 2<sup>nd</sup> Floor, 70 Harbour Drive, George Town, Grand Cayman, Cayman Islands, and Wing Sze Tiffany Wong, of Alvarez & Marsal Asia Limited, Room 405-7, 4/F, St George's Building, 2 Ice House Street, Central, Hong Kong SAR be appointed as official liquidators of the Company (the "JOLs").
- (3) The registered office of the Company be moved to Flagship Building, PO Box 2507, 2<sup>nd</sup> Floor, 70 Harbour Drive, George Town, Grand Cayman, Cayman Islands.
- (4) The JOLs be authorised to act jointly and severally in their capacity as liquidators of the Company.
- (5) The JOLs shall not be required to give security for their appointment.
- (6) The JOLs be authorised to exercise within and outside the Cayman Islands any of the powers conferred on them by the Court pursuant to Section 110(2) and Part II of the Third Schedule of the Companies Act Law without further sanction or intervention of the Court.

- (7) The JOLs be authorised to carry out any act or exercise any power considered by them to be necessary or desirable in connection with the liquidation of the Company and the winding-up of its affairs and to prevent the dissipation of the assets of the Company and its subsidiaries in any jurisdiction.
- (8) The JOLs be authorised to take any such action as may be necessary or desirable to obtain recognition of the Official Liquidators and/or their appointment in any other relevant jurisdiction and to make applications to the courts of such purpose.
- (9) The JOLs have the power to appoint agents in the Cayman Islands, and elsewhere to do any business contemplated by this order which they are unable to do themselves or which can more conveniently be done by an agent.
- (10) The JOLs be at liberty to appoint counsel, attorneys, and/or any other 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 and on such terms as they may think fit and to remunerate them out of the assets of the Company.
- (11) The remuneration and expenses of the JOLs shall be paid out of the assets of the Company.
- (12) The JOLs be at liberty to apply generally to the Court to make such orders for regulating the future conduct of the affairs of the Company as the Court shall see fit.
- (13) Such further or other relief be granted as the Court deems appropriate.
- (14) The Petitioner's costs of and incidental to the Petition shall be paid forthwith ~~by Intercap out of the assets of the Company~~ on the indemnity basis.

AND your Petitioner will ever pray etc.

Dated the            day of ~~August 2020~~ March 2021

Amended on this        of March 2021 pursuant to the Order of the Honourable Justice Segal made on March 2021.

---

**Ogier**

**Attorneys for the Petitioner**

**NOTE:** This petition is intended to be served on the Company and Intercap Financial Inc.

This Petition was presented by Ogier, whose address for service is 89 Nexus Way, Camana Bay, Grand Cayman KY1-9009, Cayman Islands.

**NOTICE OF HEARING**

**TAKE NOTICE THAT** the hearing of this petition will take place at the Law Courts, George Town, Grand Cayman, on \_\_\_\_\_ at 10:00am.

Any correspondence or communication with the Court relating to the hearing of his 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 345 959 4296.