



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

CAUSE NO. FSD 51 OF 2021 (NSJ)

**IN THE MATTER OF THE COMPANIES ACT (2021 REVISION)
AND IN THE MATTER OF MIDWAY RESOURCES INTERNATIONAL**

ORDER

IN CHAMBERS
15 MARCH 2021
BEFORE THE HONOURABLE JUSTICE

UPON the application of Midway Resources International (the "**Company**") by its *ex parte summons* dated 4 March 2021 (the "**Summons**") for the appointment of joint provisional liquidators pursuant to section 104(3) of the Companies Act (2021 Revision) (the "**Companies Act**")

AND UPON reading the winding up petition presented by the Company on 4 March 2021 (the "**Petition**"), the First Affidavit of Peter Anthony Worthington sworn on 4 March 2021, the Second Affidavit of Peter Anthony Worthington sworn on 4 March 2021, the First Affidavit of Cosimo Borrelli sworn on 3 March 2021, the First Affidavit of Mitchell Mansfield sworn on 3 March 2021, the Second Affidavit of Mitchell Mansfield sworn on 4 March 2021 and the First Affidavit of Jonathan Frederick Armour Turner sworn on 12 March 2021 and the exhibits thereto

AND UPON notice of the hearing date having been given to the known creditors of the Company including disputed and/or contingent creditors (collectively, the "**Creditors**") by email on 12 March 2021 but no Creditors appearing



AND UPON hearing Counsel for the Company at the hearing on 15 March 2021

AND UPON the Court having made the Order dated 15 March 2021 in these proceedings (the "**15 March 2021 Order**")

AND UPON the Creditors having been provided with an opportunity to request the documents and evidence filed by the Company and/or to notify the Company of an intention to make representations or to be represented in the Application in accordance with the 15 March 2021 Order

AND UPON reading the supplemental evidence in the Third Affidavit of Peter Anthony Worthington, filed in approved but unsworn form on 17 March 2021 with an undertaking by the Company to file the sworn version as soon as reasonably practicable

AND UPON reading the written submissions dated 23 March, 2021 filed by Sakson Oil & Drilling Services DMCC in opposition to the Summons and the Company's letter dated 24 March, 2021 containing the Company's reply submissions

AND UPON the Court undertaking further consideration of the matter administratively on the papers

IT IS ORDERED THAT:

1. Cosimo Borrelli and Mitchell Mansfield of Borrelli Walsh, of Level 17, Tower 1, Admiralty Centre, 18 Harcourt Road, Hong Kong and Strathvale House 3rd Floor, 90 North Church Street, Grand Cayman KY1-1204, Cayman Islands respectively, be appointed as joint provisional liquidators (the "**JPLs**") of the Company on the grounds that the Company is or is likely to become unable to pay its debts within the meaning of section 93 of the Companies Law and the Company intends to present a compromise or arrangement to its creditors.



2. The JPLs be authorised to act jointly and severally with the powers set out in and subject to the provisions of this Order.
3. The JPLs be authorised to take all necessary steps for the purpose of (i) developing and proposing a restructuring of the Company's indebtedness with a view to making a compromise or arrangement with the Company's creditors (the "**Company Restructuring**"); and (ii) assisting the directors (and management) of the Company with a view to making a compromise or arrangement with the creditors and effecting a restructuring (the "**Group Restructuring**") of various subsidiary companies (the "**Subsidiaries**" including Zarara Oil & Gas Limited ("**Zarara**")).
4. The JPLs, acting jointly or severally, are authorised to seek recognition of the provisional liquidation and/or the appointment of the JPLs in any jurisdiction that the JPLs consider necessary together with such other relief as they may consider necessary for the proper exercise of their functions within that jurisdiction.
5. For the purposes set out at paragraph 3 hereof and without prejudice to the powers retained by the Company's directors (the "**Directors**") pursuant to paragraph 7 below, until further Order, the JPLs are authorised, within and outside of the Cayman Islands, without further sanction of the Court to:
 - (a) monitor, oversee and supervise the Directors in their management of the Company (in so far as the Directors retain management powers pursuant to paragraph 7 below);
 - (b) review the financial position of the Company (and the JPLs shall have access to and may review all the Company's accounts, files and papers relating to its financial position and affairs), and in particular assess the feasibility of a proposal for both the Company Restructuring and the Group Restructuring and consider whether the proposal formulated by the Company for the restructuring of the



affairs of Zarara is appropriate or requires amendment and what steps need to be taken to obtain the approval and implementation of such proposal;

- (c) monitor, consult with and otherwise liaise with the creditors and shareholders of the Company and with the creditors of the Subsidiaries, in particular of Zarara and monitor, consult and liaise with and provide assistance to the Mauritian administrator of Zarara, in determining whether the Company Restructuring and the Group Restructuring will be successfully approved and implemented and whether amendments to the proposals for the Company Restructuring and the Group Restructuring are required;
- (d) do all acts and execute, in the name and on behalf of the Company, all agreements, deeds, receipts and other documents and, for that purpose, use the Company seal when necessary;
- (e) oversee the activities and decision making of the Directors (and attend any meetings of the Directors) so as to achieve and effect a maximisation of returns to the Company's creditors and, subject to the interests of those creditors, to the other stakeholders of the Company;
- (f) do all such things as may be necessary or expedient in connection with the Company Restructuring and the Group Restructuring for the protection or recovery of the Company's property and assets and those of the Subsidiaries at law or in equity in such jurisdictions as they may consider to be appropriate;
- (g) exercise the rights to which a registered holder of any shares or other securities registered in the name of the Company, or to which an owner of any shares or securities held by or on behalf of the Company (whether as principal or as agent), is entitled including,



but without prejudice to the generality of the foregoing power, the right to receive dividends and the benefits of other corporate actions in relation to such shares or other securities; the right to attend meetings and to exercise any voting power pertaining to such shares or other securities and to direct nominees of the Company in whose names shares or other securities beneficially owned by the Company are registered to exercise all or any such rights as the JPLs shall direct;

- (h) take control of such of the direct and/or indirect Subsidiaries of the Company, and/or joint ventures, investment, associated companies, business or other entities (together the "**Associated Companies**") in which the Company holds an interest (or such shares of such Subsidiaries and/or Associated Companies as are owned directly or indirectly by the Company), in each case wherever located, as the JPLs shall think fit; and/or to call or cause to be called such meetings of such Subsidiaries and/or Associated Companies and/or to sign such resolutions (in accordance with the provisions of any relevant constitutional or related documentation of such companies) and take such other steps, including applications to appropriate courts and/or regulators, as the JPLs shall consider necessary to appoint or remove directors, legal representatives, officers, and/or managers to or from such Subsidiaries and/or Associated Companies, and in each case take such steps as are necessary to cause the registered agents (or other equivalent corporate administrators) of such Subsidiaries or Associated Companies to give effect to the changes to the boards of directors, legal representatives, officers, and/or managers of such companies or entities, including (without limitation) effecting changes to the company registers of such Subsidiaries or Associated Companies as may be deemed appropriate by the JPLs; and/or to take such



other action in relation to all such Subsidiaries or Associated Companies as the JPLs shall think fit for the purpose of protecting the assets of the Company and managing the affairs of the Company (and the assets and affairs of the Subsidiaries and Associated Companies) and for promoting, obtaining the approval of and implementing a proposal for the Company Restructuring and the Group Restructuring;

- (i) supervise the operation and/or opening and/or closing of any bank accounts in the name and on behalf of the Company;
- (j) open any bank accounts on behalf of the Company (in provisional liquidation) and to receive funds for the purpose of paying the costs and expenses of the provisional liquidation;
- (k) draw, accept, make and endorse any bill of exchange or promissory note or borrow funds for the purpose of the day to day expenses of the provisional liquidation, in the name and on behalf of the Company, with the same effect with the respect of the Company's liability as if the bill or note had been drawn, accepted, made or endorsed or the loan had been entered into by or on behalf of the Company in the course of its business;
- (l) communicate with and carry out any necessary filings with regulatory bodies as appropriate, including, without limitation, and the Cayman Islands Registrar of Companies in the name and on behalf of the Company;
- (m) make payments to creditors which may have the effect of preferring such creditors, where necessary in order to minimise the interruption to the day-to-day activities of the Company;



- (n) discharge debts incurred by the Company or the JPLs after the appointment of the JPLs which constitute expenses or disbursements properly incurred in the provisional liquidation;
 - (o) engage staff (whether or not as employees of the Company and whether located in the Cayman Islands or elsewhere) to assist them in the performance of their duties for the purpose of the proceedings herein and to remunerate them out of the assets of the Company as an expense of the provisional liquidation;
 - (p) engage attorneys and other professional advisors (whether in the Cayman Islands or elsewhere) as the JPLs may consider necessary to assist them in the performance of their duties for the purpose of the proceedings herein, on such terms as the JPLs may think fit, and to remunerate them out of the assets of the Company as an expense of the provisional liquidation;
 - (q) ;
 - (r) pay the JPLs' remuneration on account out of the assets of the Company on the basis set out in the Insolvency Practitioners' Regulations (2018) (the "**Regulations**"); and
 - (s) do all other things incidental to the exercise of the powers set out above.
6. The JPLs shall submit an initial report to the Court on the progress of the provisional liquidation and developments relating to Mauritian administration of and the restructuring proposals made to and negotiations with the creditors of Zarara (and the terms on which funding is being made available to the JPLs) by no later than 1 April 2021 and at monthly intervals thereafter subject to any further order of the Court.



7. Until further Order, the directors shall retain all powers of management conferred upon them by the Company immediately prior to the date of this Order, subject to the JPLs' oversight and monitoring of the exercise of such powers pursuant to paragraph 5 hereof. In relation to matters related to the ordinary course of business of the Company, the Directors may exercise these powers without the approval of the JPLs. In relation to matters outside of the ordinary course of business of the Company (to include all matters related to the Company Restructuring and the Group Restructuring and the payment of any creditors save for payments of less than US\$10,000), the Directors may only exercise these powers with the JPLs' prior approval. In the event that the JPLs and the Directors cannot agree upon a proposed action outside the ordinary course of the Company's business, the JPLs and the Directors have liberty to apply to this Court for directions. Specifically, and without limitation but subject to the foregoing, the Directors may continue to exercise the following powers:
 - (a) to continue to conduct the ordinary, day-to-day, business operations of the Company;
 - (b) to continue to operate and maintain the bank accounts of the Company in the ordinary course of the Company's business; and
 - (c) subject to the approval and consent of the JPLs, to open and close bank accounts on behalf of the Company.
8. The JPLs shall not be required to give security for their appointment.
9. For the avoidance of doubt:
 - (a) no disposition of the Company's property by or with the authority of the JPLs in the carrying out of their duties and functions and the exercise of their powers pursuant to this Order shall be avoided by virtue of Section 99 of the Companies Law;



- (b) all future transfers of the fully paid shares of the Company be approved and shall not be avoided by virtue of Section 99 of the Companies Law whilst the Company is in provisional liquidation provided that the JPLs provide their written consent to each future transfer of shares; and
 - (c) pursuant to Section 97(1) of the Companies Law, no suit, action or other proceedings, including criminal proceedings, shall be proceeded with or commenced against the Company except with the leave of this Court and subject to such terms as this Court may impose.
- 10. The hearing of the Petition shall be adjourned to a date to be fixed upon the application of the JPLs, or upon the application of any creditor of the Company provided such application has been served on the JPLs not less than 14 clear days' notice before the hearing of the application.
- 11. Any creditor of the Company has liberty to apply to this Court at any time to vary or discharge this Order, on not less than 14 clear days' notice to the JPLs, and on receipt of such notice, the JPLs shall immediately notify the Directors.
- 12. The appointment of the JPLs be advertised once in English in the *Cayman Islands Gazette* within 10 days of this Order , on the Company's website within 7 days of this Order, and also once in a suitable national newspaper in Mauritius and once in a suitable national newspaper in Kenya, each as soon as reasonably practicable.
- 13. The remuneration and expenses of the JPLs, including the expenses associated with the exercise of their powers, shall be paid out of the assets of the Company subject to the approval of the Court and on such terms as the Court may direct.

14. The JPLs, the Directors or any creditor of the Company shall be at liberty to apply for directions in relation to, without limitation, any matter concerning the Company or the conduct of the provisional liquidation or the JPLs.
15. Payments made into or out of the bank accounts(s) of the Company in the ordinary course of business of the Company between the date of the presentation of the Petition herein and the date of the appointment of the JPLs shall not be avoided by virtue of the provisions of section 99 of the Companies Law in the event of an order for the winding up of the Company being made of the Petition.
16. The costs of the Summons are to be paid out of the assets of the Company.

DATED the day of 2021

FILED the day of 2021

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

This **ORDER** was filed by Walkers, Attorneys-at-Law, 190 Elgin Avenue, George Town, Grand Cayman KY1-9001, Cayman Islands, for the Company whose address for service is care of its said Attorneys-at-Law.