



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

CAUSE NO: FSD 90 OF 2021 (NSJ)

*The Honourable Mr Justice Segal
In Chambers
2 July 2021*

IN THE MATTER OF THE COMPANIES ACT (2021 REVISION)

AND IN THE MATTER OF JIAN YING OURGAME HIGH GROWTH INVESTMENT FUND

BETWEEN

KINETIC CREATION GLOBAL INVESTMENTS LIMITED

PETITIONER

AND

JIAN YING OURGAME HIGH GROWTH INVESTMENT FUND

RESPONDENT

ORDER FOR APPOINTMENT OF PROVISIONAL LIQUIDATORS

UPON the application of Kinetic Creation Global Investments Limited (the "**Petitioner**") upon its Summons dated 15 April 2021 for an order that Christopher Barnett Kennedy and Wing Sze



Tiffany Wong be appointed joint provisional liquidators of Jian Ying Ourgame High Growth Investment Fund (the "**Fund**") (the "**Application**")

AND UPON hearing Counsel for the Petitioner only, Counsel to the Fund having been dis-instructed by the Fund on 30 June 2021

AND UPON reading the petition dated 9 April 2021 (the "**Petition**")

AND UPON reading the First Affirmation of Qian Zhiyi affirmed on 9 April 2021, the First Affidavit of Christopher Barnett Kennedy sworn on 9 April 2021, the First Affidavit of Wing Sze Tiffany Wong sworn on 9 April 2021, the Second Affirmation of Qian Zhiyi affirmed on 15 April 2021, the Second Affidavit of Christopher Barnett Kennedy sworn on 15 April 2021 and the Second Affidavit of Wing Sze Tiffany Wong sworn on 15 April 2021, the First Affidavit of William Waldron sworn on 20 April 2021, the unaffirmed First Affirmation of Xiong Hui dated 26 April 2021; the unaffirmed Second Affirmation of Xiong Hui dated 30 April 2021; the unaffirmed Third Affirmation of Xiong Hui dated 7 May 2021; the unaffirmed Fourth Affirmation of Xiong Hui dated 31 May 2021; the undated and unaffirmed Fifth Affirmation of Xiong Hui; the Second Affidavit of William Waldron sworn on 4 June 2021; the Third Affirmation of Qian Zhiyi affirmed on 7 June 2021, the undated and unaffirmed Sixth Affirmation of Xiong Hui and the unaffirmed Fourth Affirmation of Qian Zhiyi dated 1 July 2021 and in each case exhibits thereto

AND UPON the Petitioner undertaking by its counsel to pay for (a) any damage suffered by the Fund by reason of the appointment of provisional liquidators; and (b) the remuneration and expenses of the provisional liquidators in the event that the Petition is ultimately withdrawn or dismissed



AND UPON the Fund providing undertakings regarding the conduct of its affairs, as contained in an order of this Court dated 27 April 2021 (the "**April Undertaking**") and as further contained in an order of this Court dated 14 May 2021 (the "**May Undertakings**")

AND UPON the dismissal, by order of this Court dated 29 June 2021, of the Fund's application made by way of summons dated 31 May 2021 (the "**Validation Summons**") seeking, *inter alia*, variation of the May Undertakings and validation pursuant to section 99 of the Companies Act 2021 of the pursuit by the Fund of the transaction(s) described therein

ANY UPON the Fund having broken the April Undertaking

IT IS ORDERED that:

1. Christopher Barnett Kennedy of Alvarez & Marsal Cayman Islands Limited, Flagship Building, PO Box 2507, 2nd Floor, 70 Harbour Drive, George Town, Grand Cayman, Cayman Islands KY1-1104, 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 be appointed as joint provisional liquidators (the "**JPLs**") of the Fund.
2. The JPLs are hereby authorised to:
 - (a) act jointly and severally in their capacity as JPLs of the Fund;
 - (b) conduct the ordinary day-to-day business operations of the Fund so far as may be necessary to preserve its assets ("**Assets**") or otherwise as may appear to the JPLs to be in the best interests of the Fund's stakeholders and to carry on the business of the Fund so far as may be necessary for the beneficial winding up of the Fund until further order and for this purpose to pay or authorise payments of



any monies in the ordinary course of the business of the Fund out of monies in the existing bank account or accounts of the Fund or bank account or accounts opened or maintained by the JPLs as hereinafter provided;

- (c) take such other steps as the JPLs consider necessary to preserve and protect the Assets;
- (d) close or cease to operate all or any part of the Fund's business operations as the JPLs shall think fit, but so far only as may be necessary for the purpose of protecting the Assets, and managing the affairs of the Fund;
- (e) enter upon or take possession of the property of the Fund including without limitation any premises of the Fund, or any office where the JPLs have reason to believe that there are assets, property or books and records of the Fund, and if necessary by force, to change locks and open safes and other strongboxes;
- (f) terminate, complete or perfect any contracts or transactions relating to the business of the Fund including, without prejudice to the generality of this power, to novate or assign any such contracts or transactions;
- (g) ascertain, take possession of, collect, give valid receipt for, and protect all books, documents, records, trading data, properties, things in action, securities and other assets of the Fund, whether in hard copy, electronic form or otherwise, and whether within or outside the jurisdiction of this Court, including, but without prejudice to the generality of the foregoing powers, to demand and receive all debts due or which may fall due to the Fund;



- (h) have unrestricted access on behalf of the Fund forthwith to all the books, records, and documents of the Fund held by and for the Fund including by its current and former service providers (whether in hard copy form or stored electronically) and cause to be delivered to the JPLs as soon as practicable title deeds of all properties held by the Fund and thereafter for the Fund and the directors to provide all assistance to the JPLs and their staff as they may request from time to time;
- (i) exercise the rights to which a registered holder of any shares or other securities registered in the name of the Fund and/or held for the benefit of the Fund, or to which an owner of any shares or securities held by or on behalf of the Fund (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 requisition and attend meetings and to exercise any voting power pertaining to such shares or other securities (including, without limitation, to vote to remove and appoint directors and officers and to vote and/or to commence proceedings to wind up the entities in which such shares are held) and to direct nominees of the Fund in whose names shares or other securities beneficially owned by the Fund are registered to exercise all or any such rights as the JPLs shall direct;
- (j) take control of such of the direct and/or indirect subsidiaries ("**Subsidiaries**") of the Fund, and/or joint ventures, investment, associated companies, business or other entities (together the "**Associated Companies**") in which the Fund holds an interest (or such shares of such subsidiaries and/or associated companies as



are owned directly or indirectly by the Fund) that include for the avoidance of doubt any wholly foreign owned entities ("**WFOEs**") or variable interest entities ("**VIes**"), 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 to vote and/or to commence proceedings to wind up the entities in which such shares are held, 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 Fund 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 Fund and managing the affairs of the Fund (which, for the avoidance of doubt, shall include the assets and affairs of the Subsidiaries and Associated Companies);

- (k) without prejudice to the generality of the foregoing, take steps to replace the directors, legal representatives, and any officers (including, but not limited to, the general manager) of any WFOE in accordance with the laws of the PRC including, without limitation, the making of an application to the relevant



authorities in the PRC for the amendment to the articles of association of any WFOE in order to reflect a change in legal representative, registering the change in legal representative with the relevant PRC authorities, and making post-registration amendments to ancillary administrative documents;

- (l) ascertain and conduct investigations of the affairs of the Fund, including without prejudice to the generality of the foregoing, the power to inspect, review, secure, take possession of and copy all books, records, and documents of the Fund (whether in hard copy, electronic form or otherwise), located at the offices of the Fund, its accountants, auditors or other advisors or agents, or any other person, whether in the Cayman Islands or overseas, including but not limited to the Club Services Transaction (as defined in the Petition);
- (m) do all acts and to execute, in the name and on behalf of the Fund, all deeds, receipts and other documents and for such purposes, to use, when necessary, the seal of the Fund or any subsidiaries;
- (n) if necessary, repair, maintain and insure the Assets in such sum as the JPLs may deem fit;
- (o) open a bank account on behalf of the Fund for the purpose of paying the costs and expenses of the provisional liquidation;
- (p) operate the bank accounts of the Fund;
- (q) discharge debts incurred by the Fund after the commencement of these proceedings as expenses or disbursements properly incurred in the provisional liquidation;



- (r) change the location within the Cayman Islands of the Fund's registered office and any registered office of any Subsidiary or Associated Company over which the JPLs obtain control as the JPLs think fit;
- (s) appoint and engage clerks, servants, employees, managers and agents including foreign agents upon such terms as to remuneration or otherwise and for such periods as the JPLs may deem fit;
- (t) engage staff (whether or not as employees of the Fund) to assist them in the performance of their functions and to remunerate them out of the assets of the Fund as an expense of the provisional liquidation;
- (u) terminate the employment of any managers, clerks, servants, employees or agents of the Fund and to close place or places of business as the JPLs may deem fit;
- (v) appoint attorneys and professional advisers, whether in the Cayman Islands or elsewhere, as they consider necessary to advise and assist them in the performance of their functions and to remunerate them out of the assets of the Fund as an expense of the provisional liquidation;
- (w) investigate and if considered appropriate bring proceedings against previous management, employees, directors, advisers and auditors of the Fund and enter into any such agreement considered necessary or ancillary to such proceedings including but not limited to the appointment of attorneys and professional advisers, whether in the Cayman Islands or elsewhere, as they consider necessary and funding agreements;



- (x) seek recognition in any jurisdiction the JPLs deem necessary;
 - (y) pay the JPLs' remuneration out of the assets of the Fund in accordance with the Insolvency Practitioner's Regulations 2018 (as amended); and
 - (z) exercise the powers set out in Schedule 3, paragraphs 1, 2, 10, and 11 of Part I, and the whole of Part II of the Companies Act (2021 Revision) (the "**Companies Act**") without further sanction of the Court.
3. To the extent required, the above powers may be exercised on behalf of the Fund in the name and to the exclusion of the directors of the Fund which directors shall forthwith have no authority or power to act in relation to the Fund other than at the direction and with the prior written consent of the JPLs.
 4. The JPLs be directed to submit a report to the Court on the conduct of the provisional liquidation at least seven days before the date of the hearing of the Petition and at other intervals as the Court may from time to time direct.
 5. The JPLs shall not be required to give security for their appointment.
 6. The Petitioner's costs of and incidental to the application for the appointment of the JPLs be paid out of the assets of the Fund as an expense of the provisional liquidation.
 7. For the avoidance of doubt:
 - (a) No disposition of the Fund's property and no transfer of the Fund's shares by or with the authority of the JPLs in the carrying out of their duties and functions and the exercise of their powers shall be avoided by virtue of section 99 of the Companies Act; and

(b) Pursuant to section 97 of the Companies Act, no suit, action or other proceedings, including criminal proceedings, shall be proceeded with or commenced against the Fund except with the leave of the Court and subject to such terms as the Court may impose.

8. Liberty to apply.

Dated the 2nd day of July 2021

Filed the 2nd day of July 2021



The Honourable Mr Justice Segal
JUDGE OF THE GRAND COURT

THIS ORDER was filed by Walkers, Attorneys-at-Law for the Petitioner whose address for service is that of their said attorneys, 190 Elgin Avenue, George Town, Grand Cayman KY1-9001.