



IN THE GRAND COURT OF THE CAYMAN ISLANDS

FINANCIAL SERVICES DIVISION

CAUSE NO: FSD OF 2022

IN THE MATTER OF THE COMPANIES ACT (2022 REVISION)

AND IN THE MATTER OF SEAHAWK CHINA DYNAMIC FUND

WINDING UP PETITION

To: The Grand Court

THE HUMBLE PETITION of Lau Chun Shun of Flat A, 16/F, Tower 6, Mayfair By The SEA II, No. 21 Fo Shun Road, Pak Shek Kok, Tai Po, New Territories, Hong Kong (the **Petitioner**) **SHOWS THAT:**

The Company

1. Seahawk China Dynamic Fund (formerly named Apeiron Seahawk China Dynamic Fund) (the **Company** or **Fund**) was registered in the Cayman Islands on 21 August 2017 as an exempted limited company with registration number OC-326224 pursuant to the Companies Act (as amended) (the **Act**). The Company's current registered office is at 89 Nexus Way, Camana Bay, Grand Cayman, KY1-9009, Cayman Islands.
2. The Company has an authorised share capital of US\$50,000 comprising shares of 100 Management Shares and 4,999,900 Participating Shares of US\$0.01 each. Mr Hao Liang (**Mr Liang** or **Henry**) holds 100% of the Management Shares, which are non-participating voting shares (and the only voting shares). Until very recently the directors of the Company have been Mr Liang, one Zhang Jiaying (**Ms Zhang**), Mr Liang's associate who resigned on 9 December 2021, and the Petitioner, who was removed as a director by Mr Liang with effect on 31 December 2021. Although Professors Michael Pettis and Yu Yue were appointed as directors by Mr Liang with effect on 1 January 2022, it is averred that Mr Liang controls the Company by virtue both

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of his sole ownership of the voting Management Shares, and as the director with *de facto* control and dominance at Board level.

3. The investment objective of the Company is described at page 26 of the Private Offering Memorandum of the Company dated 19 December 2019 (the **PPM**) and is to maximise long term total return through a concentrated global portfolio. The Company carries on its business through various brokerages in Hong Kong, where it is also managed through a separate entity.
4. The Company's Investment Manager is Gold Dragon Worldwide Asset Management Limited, a company incorporated with limited liability in Hong Kong licensed for type 4 (advising on securities) and type 9 (asset management) regulated activities by the Securities and Futures Commission under the Securities and Futures Ordinance of Hong Kong (the **Manager**). The Manager is ultimately owned by the Petitioner, his parents, and his uncle. They also serve as the directors of the Manager together with Mr Liang and Ms Kong Wai Nga Rachel, who is also and at all material times was the COO of the Manager.
5. Alongside the Company, the Manager manages the investment portfolios of The Hover4pi Master Fund and The Hover4pi Offshore Feeder Fund (together the **Hover4pi Funds**), two companies incorporated in the Cayman Islands with limited liability on 1 February 2021. All of the Management Shares in the Hover4pi Funds are held by Mr Liang's wife, April Qingnan Li (**Mrs Liang**). A majority of the participating shares in Hover4pi Feeder Fund are held by Mr Liang and Ms Hui He, his mother. Hover4pi Feeder Fund, in turn, holds 100% of the issued shares in the Hover4pi Master Fund.
6. Notwithstanding the fact that the Petitioner controls the Manager and the Manager remains appointed to manage Company, Mr Liang has used his role as director of the Company (and his control of the Company by virtue of his ownership of 100% of the Management Shares) to seek to manage the Company in place of the Manager, presenting himself as properly authorized to do so to third party brokerages, to the exclusion of the Manager.
7. Until recently, Mr Liang acted as CEO and CIO of the Manager, pursuant to which roles he was responsible for managing the Company, including its portfolio.
8. As set out in this Petition below, he was, however, suspended from his duties and responsibilities by the board of the Manager with effect from 29 December 2021.

The Petitioner

9. The Petitioner (also referred to herein as **Mr Lau**) is an individual investor, holding 109,957.59 Class N shares in the Company with a net asset value (**NAV**) (as of 30 November 2021) of

US\$306,156,549.47, representing approximately 70.30% of the total NAV of the Company as at 30 November 2021. The other holders of Class N shares, together holding approximately 18.46% of the Company's NAV, are the Petitioner's wife and relatives, and are supportive of the Petition. Together, the Class N shareholders have a legal interest in a majority of the participating shares in the Company.

10. The remaining 11.24% of the NAV is represented by Class A shares, Class E shares and the Purported Performance Allocation Shares. Holders of Class A shares (approximately 1.82% of the NAV) are investors associated with or referred by Mr Liang, whereas the Class E shares (approximately 4.85% of the NAV) are held by Mr Liang and his mother. As for the Performance Allocation Shares (defined below), these make up approximately 4.59% of the NAV.

Summary of Grounds for the Petition

11. The Petitioner seeks a winding up of the Company on just and equitable grounds for the following reasons:

Lack of Probity and Loss of Confidence in Mr Liang

(a) Mr Lau has justifiably and irretrievably lost all confidence in the Company's management because of a clear lack of probity of one of the Company's directors, who is also the Company's sole voting member, Mr Liang. Mr Liang has abused and misused his power and authority in connection with his control and management of the Company and has acted in a manner that favours his own interests to the detriment of the interests of the Company and thereby Mr Lau and other investors. In particular, but without limitation, Mr Liang:

- i. Through the Unauthorised Scheme (as set out in paragraphs 23 – 36 below), attempted to secretly strip approximately US\$19,997,219.62 for his own benefit from the Company.
- ii. Through the Late Trade Allocations (as set out in paragraphs 37 – 40 below) has orchestrated a deliberate and cynical system to siphon moneys to the Hover4pi Funds (controlled by him and his wife) while simultaneously causing significant losses to the Company. In doing so he deliberately preferred the interests of the Hover4pi Funds, and ultimately himself, and has deliberately caused the Fund to suffer losses of approximately USD8,073,918.07;
- iii. Purported to make significant amendments to the Company's constitutional documents and the IMA;

- iv. Convened board meetings without providing the requisite notice to the Petitioner, who was entitled to such notice as a director, despite dishonestly recording the contrary in the relevant minutes;
- v. Passed resolutions at those board meetings by majority which, as he had been advised, he could have passed even if the Petitioner had attended the board meetings and not been agreeable, from which it can be inferred that Mr Liang was seeking to conceal his actions;
- vi. Generally sought to conceal his illegitimate actions and acted with a complete lack of transparency by failing to inform investors and the Manager of his conduct, in particular by (*inter alia*) failing to notify investors of the purported amendments to the PPM and by failing to keep Ms Kong informed of his actions;
- vii. Purported to create a new class of shares which he subsequently allocated to himself; and
- viii. Removed the Petitioner from the board of the Company.

Irretrievable Breakdown of a Quasi-Partnership and Unjustifiable Exclusion from Management in Disregard of the Petitioner's Legitimate Expectations

(b) The Company is, and was operated by the Petitioner and Mr Liang, akin to a quasi-partnership and the personal relationship involving mutual trust and confidence on which it was founded and operated (as part of an effective 'consolidation' of the Petitioner's business through the Manager) has irretrievably broken down. The legitimate expectations that had arisen on account of that relationship and the understanding between Mr Liang and the Petitioner, have been disregarded by Mr Liang. Accordingly, there is no or no reasonable hope of reconciliation between Mr Liang and the Petitioner. In particular, but without limitation, Mr Liang:

- i. Sought to divert the entirety of the Performance Fee payable to the Manager to himself, notwithstanding the express agreement between Mr Liang and the Petitioner that approximately 20% of the Performance Fee would be payable to the Manager.
- ii. Deliberately put in place the Unauthorised Scheme and dishonestly sought to conceal the same from the Petitioner by (*inter alia*) failing to notify him of important Board meetings of the Company when the Petitioner was a director, despite being required by the Company's Articles of Association to do so, and signing corporate documents of the Company as one of its directors, when those

corporate documents expressly represented that the Petitioner had been given notice of the relevant Board meeting, when Mr Liang knew full well he had not. Those deliberately misleading corporate documents were then provided to the Company's (unsuspecting) Attorneys to create the impression that Mr Liang had followed their clear advice that notice of the meeting was required to be given to the Company's other directors; and

- iii. Removed the Petitioner from the board of the Company and generally acted to exclude the Petitioner from the management of the Company, which was contrary to the Petitioner's legitimate expectation – based on the discussions and arrangements which formed the basis for his provision of the overwhelming majority of the Company's capital for investment – that he would always be involved in the management of the Company as a director.

Oppression, Prejudice and Undermining of the Petitioner's Rights and Interests

- (c) Mr Liang has used his complete voting power in respect of the Fund to cause oppression and prejudice to Mr Lau's interests as a shareholder, exclude him from the Fund's management as a director and to further his own personal interests. In the premises above, Mr Liang conducted and is likely to continue to conduct the Fund's business in such a way that the rights and interests of the Petitioner, and the Company itself, have been disregarded and undermined such that it would be unjust and inequitable for the Petitioner to be forced to remain as a member of the Company.

The Urgent Need for an Investigation

- (d) In the c.3 months since November 2021, the Petitioner and the Manager have discovered a series of dishonest and deliberately concealed acts on the part of Mr Liang – the Unauthorised Scheme (relating to the attempted diversion by Mr Liang of over USD19m in performance fees), and the Late Trade Allocations (relating to losses caused to the Fund of over USD8m). Both matters have now been reported by the Manager to the Regulator and the Police in Hong Kong. The Unauthorised Scheme is also the subject of civil proceedings in Hong Kong brought by the Manager, in which an *ex parte* Injunction against Mr Liang has been granted. The discovery of the Unauthorised Scheme, the Late Trade Allocations together with the lack of transparency and concealment around both, urgently requires an independent investigation by independent liquidators into the affairs of the Fund. Relatedly, there is also an urgent need for further investigation into Mr Liang's actions, expanding an

initial detailed investigation Mr Lau has already caused to be undertaken, which led to the discovery of the Late Trade Allocations.

12. The Class N shares held by the Petitioner are participating non-voting shares in the Company. The Petitioner has no contractual or other ability to remove Mr Liang from the Company's board of directors and as the holder of the Management Shares, or to otherwise change the composition of the Company's board of directors. Therefore, the Petitioner's complaints can only be properly dealt with by way of the appointment of independent official liquidators who will be able to properly and independently investigate the Petitioner's (and the remaining Class N shareholders') concerns, and to wind up the Company's affairs and distribute its assets in accordance with the Cayman Islands winding up regime as set out in the Act and the Companies Winding Up Rules.
13. The Petitioner unequivocally seeks a winding up of the Company as, in the circumstances, there is no other more suitable remedy to pursue.

Background to the Arrangements between Mr Liang and the Petitioner

14. The Petitioner first met Mr Liang in China in or around September 2017 through Mr Zhang's (the Petitioner's uncle's) son, Patrick, who was Mr Liang's primary school classmate and neighbour, when the Petitioner was exploring investment opportunities and looking for someone to join and lead his recently establishment fund management business, Gold Dragon.
15. When the Petitioner was next in Hong Kong, he started communicating with Mr Liang via WeChat and agreed to meet him for coffee to discuss their respective careers and plans. The Petitioner's plan was to develop Gold Dragon's management platform by starting slowly and bringing in an individual with trading expertise to effectively run the operation. Mr Liang was interested in this, as well as obtaining substantial investment for the Fund from the Petitioner, but also stressed he wanted autonomy at the management level if he was to take such a role. The Petitioner expressly referred to their venture as a "*partnership*".
16. On 24 November 2017, the Petitioner subscribed for shares of the Company with a subscription amount of HKD\$10,000,000 (US\$1,282,051). This first subscription was initially for Class A shares. This shareholding, together with the later subscription at paragraph 19(a) below, was converted to Class N Shares such that all of the Petitioner's participating shares are Class N participating shares.
17. In December 2017, the Petitioner and Mr Liang began to discuss further the terms of their relationship going forward and this continued over several months, during which time the Petitioner and Mr Liang developed a personal relationship.

18. The discussions generally took place over WeChat and were informal in nature. As the Petitioner was putting in the majority of the Fund's capital, which would attract other investors and expand the Company, he insisted as part of these discussions that the Fund would be managed through the Manager, such that the Manager would be entitled to receive management and performance fees for managing the expanded Company, that he would have a director role in the Fund, with Mr Liang also having a director role in the Manager. This was an important part of the mutual agreement.
19. Thus:
- (a) On 28 January 2018, the Petitioner subscribed HKD181,000,000.
 - (b) On 8 April 2018, Mr Liang entered into an employment agreement and became CEO of the Manager. Pursuant to the employment agreement, Mr Liang was to receive a gross base salary of HKD\$1,800,000 per annum and owed (*inter alia*) the following duties to the Manager:
 - i. To faithfully and diligently perform the duties and exercise such powers consistent with them which are assigned to or vested in him;
 - ii. To use his best endeavours to promote the business of the Manager; and
 - iii. To keep the person designated as his immediate superior promptly and fully informed of his conduct of the business or affairs of the Manager.
 - (c) On 30 April 2018, the Company was appointed the sub-manager of the Fund via an IMA with Seahawk Capital, one of Mr Liang's companies which was the appointed manager at that time. The terms of this investment management agreement are broadly similar to the IMA later entered into between the Company and the Manager on 23 December 2019.
 - (d) On 30 April 2018, the Petitioner was appointed a director of the Company.
 - (e) On 11 July 2018, Mr Liang and the Petitioner, on behalf of the Manager, entered into a side agreement (the **General Terms**), pursuant to which (*inter alia*) at least 80% of the performance and management fees payable to the Manager would be paid to Mr Liang as a bonus, with the final amount to be determined by the Petitioner. The General Terms were principally drafted by Mr Liang with several drafts of the document passing between him and the Petitioner. The Petitioner trusted Mr Liang to accurately capture what they had ultimately both agreed to following their discussions and negotiations of the terms of the agreement over WeChat messages. The General Terms also contained assurances by Mr Liang that his management would be "*completely transparent*" and provisions to the effect that deductions

- could be made from Mr Liang's bonus if he was found to be profiting by damaging the rights and interests of the Manager or the Company.
20. Notwithstanding the General Terms:
- (a) On 22 October 2019 and upon Mr Liang's request, the Petitioner settled Mr Liang's bonus entitlement for 2018 under the General Terms by way of a transfer of shares in the Company to Mr Liang's mother.
 - (b) On or around 6 January 2020, notwithstanding that no bonus was payable to Mr Liang for 2019 pursuant to the General Terms, the Petitioner personally made a payment of HKD\$2,000,000 to Mr Liang's mother representing a bonus for Mr Liang, as a reflection of the continued trust and confidence vested in Mr Liang by the Petitioner.
 - (c) On 1 March 2021 and upon Mr Liang's request, the Petitioner again settled Mr Liang's bonus entitlement for 2020 by way of a transfer of shares in the Company to Mr Liang.
21. The aforementioned facts and matters are demonstrative of a relationship of trust and confidence between the Petitioner and Mr Liang similar to that obtaining between partners. In particular, but without limitation:
- (a) Each became a director of the other's entity: Mr Liang became a director and CEO of the Manager, an entity owned and run by the Petitioner and his family, and the Petitioner became a director of the Company, which had been founded by Mr Liang.
 - (b) The Petitioner agreed to manifestly uncommercial terms, pursuant to which the substantial majority of the fees normally payable to the Manager would be paid to Mr Liang as a bonus (as to 80%). That arrangement can only be explained by reference to the personal relationship between the Petitioner and Mr Liang.
 - (c) The Petitioner settled Mr Liang's bonus entitlements for 2018 and 2020 in the manner requested by Mr Liang, contrary to the General Terms, and personally ensured that Mr Liang was paid a bonus for 2019 notwithstanding Mr Liang's lack of entitlement to the same.
22. On 23 December 2019, the agreement between the Manager and Seahawk Capital was replaced by an Investment Management Agreement between the Manager and the Company (**IMA**). Clause 9 of the IMA provided for the payment of management fees and performance fees by the Company to the Manager, to be calculated in accordance with Schedule 2 to the IMA.

The Unauthorised Amendments, Unauthorised Supplemental Agreement and the Invalid Board Resolutions

23. On 11 and 12 August 2021, the Petitioner, with the assistance of Ms Zhang, purported to make amendments to the IMA, PPM, Articles of Association and the Memorandum & Articles of the Company (the **Unauthorised Amendments**) for his own benefit and to the detriment of the Company and the Manager.
24. Pursuant to the Unauthorised Amendments, Mr Liang sought to create a new class of shares – the **Purported Performance Allocation Shares** – to which the total value of the performance fee otherwise payable to the Manager (which would cease to be so payable) would accrue and to make himself the holder of those shares. In short, Mr Liang took steps to divert the performance fee payable to the Manager to himself. Thus:
- (a) Mr Liang exercised his total voting power to pass a resolution purporting to designate 100 shares of the Company as 'Performance Allocation Shares' by way of the **12 August Shareholders' Resolution**. It is denied that Mr Liang acted in good faith for the benefit of the Company as a whole when purporting to pass the same.
 - (b) The IMA was amended to remove the Manager's entitlement to performance fees and to provide that the IMA would terminate automatically if Mr Liang's contractual relationship with the Manager terminated. The **Updated IMA** was signed by Mr Liang on behalf of Gold Dragon, and by Ms Zhang on behalf of the Company.
 - (c) It averred that Mr Liang was acting in breach of his fiduciary duty to the Manager in purporting to sign the Updated IMA on its behalf. In the premises, such breach of fiduciary duty was known or would have been obvious to the Company through either Ms Zhang, a director of the Company at the material time who purported to sign the Updated IMA on behalf of the Company, and/or Mr Liang, who was also a director of the Company at the material time. In the premises, it is denied that the Updated IMA is binding on the Manager.
 - (d) The PPM was updated to delete references to the performance fee and to replace these with references to an entitlement to performance allocation on the part of the holder of the Performance Allocation Shares.
 - (e) The Articles of Association were amended to refer to Performance Allocation Shares and to stipulate the rights of redemption of the Performance Allocation Shares, which are exercisable at the option of the holder.
 - (f) The Memorandum & Articles was amended to reflect that the share capital would now comprise USD50,000 divided into 100 Management Shares of par value USD 0.01 each, 100

- Purported Performance Allocation Shares of per value USD 0.01 each and 4,999,800 Participating Shares of USD 0.01 par value each. The revised Memorandum & Articles were approved by a board resolution signed by Mr Liang and Ms Zhang.
25. The revised PPM, Articles of Association and Memorandum & Articles were approved by the **11 August Directors' Resolutions**, which were signed by Mr Liang and Ms Zhang. It is the Petitioner's case that the 11 August Directors' Resolutions are void and of no effect since they pre-dated the 12 August Shareholder's Resolution on which they depend.
 26. Prior to calling the board meeting at which the Unauthorised Amendments were made, Mr Liang was advised by Ogier, as counsel to the Company, that in order to pass the necessary board resolutions in circumstances where not all of the directors were agreeable, Mr Liang would have to call an actual meeting and pass resolutions by a majority of the directors attending. That advice was correct pursuant to Article 29.1/30.1 of the Articles of Association/revised Articles of Association.
 27. Notwithstanding that advice and the fact that a majority of the directors (i.e. Ms Zhang and Mr Liang) were agreeable, Mr Liang called for a board meeting and purported to pass and did sign the 11 August Directors' Resolutions, which stated "*the requisite notices*" had been given. That statement was false since no notice of the board meeting had been given to the Petitioner.
 28. On 12 August 2021, Mr Liang requested that Apex Fund Services (Cayman) Ltd (the **Administrator**) accrue the then-due but unpaid performance fee, estimated to have been circa USD10,000,000, to the Performance Allocation Shares. The Administrator indicated that in order for it to do so, Mr Liang would need to provide a board resolution on behalf of both the Company and the Manager to that effect.
 29. Having sought to put in place the machinery by which the value of the performance fees otherwise payable to the Manager would become payable to him, Mr Liang sought to realise that payment by way of the 16 November Directors' Resolutions and the Unauthorised Amendments set out below (the **Unauthorised Scheme**).
 30. On 16 November 2021, Mr Liang on behalf of the Manager and Ms Zhang on behalf of the Company, entered into a Supplemental Agreement to the IMA (the **Unauthorised Supplemental Agreement**), pursuant to which the Manager apparently agreed and approved the full conversion of the outstanding crystallised performance fee as of 31 October 2021, being **USD19,997,219.62** to Performance Allocation Shares. Paragraph 24(c) above is repeated *mutatis mutandis* in respect of the Unauthorised Supplemental Agreement.

31. Mr Liang provided the Unauthorised Supplemental Agreement to the Administrator as evidence of the Manager's approval for his request, notwithstanding that the Administrator had previously indicated that Mr Liang would need to provide a board resolution on behalf the Manager.
32. On the same date, Mr Liang called a board meeting of the Company, as to which notice was not given to the Petitioner and at which Mr Liang and Ms Zhang resolved that the full conversion of the outstanding crystallised performance fee as of 31 October 2021, being USD19,997,219.62 to Performance Allocation Shares should occur (**16 November Directors' Resolutions**, together with the 12 August Board Resolutions: the **Invalid Board Resolutions**).
33. The 16 November Directors' Resolutions stated that "*the requisite notices*" had been given. As Mr Liang knew full well, that statement was false since no notice of the board meeting had been given to the Petitioner.
34. Further, it is averred that Mr Liang's failure to give notice of the board meeting to the Petitioner was:
 - (a) Contrary to the Company's constitutional documents (in particular, Article 29.1/30.1 of the Articles of Association/revised Articles of Association); and
 - (b) In breach of the Petitioner's legitimate expectation that Mr Liang would manage the Company transparently and/or that the Petitioner would not be excluded from the management of the Company.
35. In the premises:
 - (a) Mr Liang acted dishonestly by not giving notice to the Petitioner of the 11 August and 16 November board meetings of the Company whilst passing the Invalid Board Resolutions that noted "*the requisite notices having been given*", since Mr Liang knew full well that they had not been.
 - (b) Further, it is averred that Mr Liang's failure to give notice of the 11 August and 16 November board meetings to the Petitioner was, and was known full well to be:
 - i. In breach of the Petitioner's legitimate expectation that Mr Liang would manage the Company completely transparently and/or that the Petitioner would not be excluded from the management of the Company; and
 - ii. Contrary to the Company's constitutional documents (in particular, Article 29.1/30.1 of the Articles of Association/revised Articles of Association).

(c) Mr Liang exposed the Company to the possibility that it would be, or might sought to be made, liable to pay the performance fee to the Manager in the event that the Manager sought to challenge the unauthorised amendments to the IMA and the Unauthorised Supplemental IMA (which it now has done by way of the Hong Kong Proceedings).

(d) Mr Liang deliberately concealed his course of conduct. In particular, but without limitation:

- i. It is inferred that Mr Liang did not give notice to the Petitioner of the 11 August and 16 November board meetings of the Company in order to conceal the Unauthorised Amendments, Unauthorised Supplemental Agreement and the intended Invalid Board Resolutions. Indeed, Mr Liang had been advised shortly before he called the 11 August board meeting that the relevant resolutions could be passed even if the Petitioner attended the meeting and objected. Mr Liang knew full well that he should have followed that advice, and was obliged to do so in order to comply with (a) his fiduciary obligations as a director, (b) the Company's constitution and procedure and (c) the understanding and arrangements as to the Petitioner's involvement in the management of the Company as one of its directors. Despite that knowledge, Mr Liang did not do so.
- ii. Mr Liang did not copy Ms Kong in correspondence with the Administrator or Ogier that concerned the Unauthorised Amendments, Unauthorised Supplemental Agreement and the Invalid Board Resolutions, notwithstanding that Ms Kong was copied in correspondence concerning other amendments to the Company's constitutional documents at the material time and was involved in the day-to-day management of the Company's investment portfolio.
- iii. On 11 October 2021, Mr Liang personally paid Ogier's invoice for drafting the Unauthorised Amendments by cheque. That was unusual because the Fund's legal fees were routinely settled by the Fund itself. It is inferred that Mr Liang personally paid Ogier's invoice in order to avoid the Unauthorised Amendments being detected by the Fund and/or the Manager.
- iv. On 18 October 2021, in response to the Administrator asking whether Mr Liang required the Administrator to send the amended PPM to the Company's investors, Mr Liang falsely asserted that the amendments did not directly relate to the Company's investors.

36. For the avoidance of doubt, the Petitioner denies that the Unauthorised Amendments, Unauthorised Supplemental Agreement and the Invalid Board Resolutions are valid and/or effective.

The Dishonest Late Trade Allocations

37. During the period June to December 2021, Mr Liang engaged in the following pattern of conduct by which he dishonestly diverted profitable trades away from the Company to the Hover4pi Funds and allocated loss-making trades to the Company:
- (a) Mr Liang, in the course of managing the investment portfolios of the Company and the Hover4pi Funds, placed trade orders for the purchase and sale of securities without specifying whether the trade was to be allocated to either the Company or the Hover4pi Funds at the time when the order was made.
 - (b) When he did so, Mr Liang notified Mr Lee, the company secretary and operations manager of the Manager, the day after the purchase was made or, in any event, prior to settlement of the relevant purchase whether the trade should be allocated to the Company or to the Hover4pi Funds (the **Late Trade Allocations**). As a result of the passage of time between placing and then allocating the trade, Mr Liang was able to observe market movements such that, at the later point in time, a trade could be seen to be either loss-making or profit-making.
 - (c) The Petitioner has identified 32 instances of Late Trade Allocations.
 - (d) Of those 32 trades:
 - i. Eight were loss-making trades as at the time the relevant Late Trade Allocations were made. All of those loss-making trades were allocated to the Company (the **Loss-Making Allocated Trades**).
 - ii. Twenty-three were profit-making as at the time the relevant Late Trade Allocations were made. All of those profit-making trades were allocated to the Hover4pi Funds (the **Profit-Making Allocated Trades**, together with the Loss-Making Allocated Trades: the **Allocated Trades**).
 - (e) By way of the Late Trade Allocations, Mr Liang has deliberately caused the Fund to suffer losses of approximately **USD 8,073,918.07**. This amount represents the sum total of (i) the amount of losses deliberately diverted to the Fund by Mr Liang, and (ii) the amount of profits diverted away from the Fund by Mr Liang.
38. In summary, other than one trade, every time a Late Trade Allocation was liable to result in a loss it was allocated to the Company, and every time a Late Trade Allocation was liable to result in a profit it was allocated to Hover4pi Master Fund, of which Mr Liang, together with his mother, indirectly own a majority of the value of the portfolio. The pattern of conduct described amounts

to a series of deliberate and dishonest breaches of Mr Liang's fiduciary duty as a director of the Company to avoid placing himself in a conflict of interests and to not make a personal profit at the expense of the Company.

39. In the premises, and as summarized below, Mr Liang acted dishonestly:

(a) Mr Liang consciously and deliberately placed himself in a conflict of interest by making the Late Trade Allocations and by favouring the interests of Hover4pi, and ultimately himself and his wife, by allocating the Profit-Making Allocated Trades to Hover4pi and the Loss-Making Trades to the Company.

(b) Mr Liang abused his position as CEO and CIO of the Manager in the substantial wrongful prioritisation of his (and his wife's) self-interest in circumstances that demonstrate dishonesty and a lack of probity on the part of Mr Liang.

Removal of the Petitioner as Director of the Company

40. In December 2021, Mr Liang used his sole voting control of the Company to pass a shareholder's resolution of the Company by which he resolved to accept the resignation of Ms Zhang as director effective from 31 December 2021, to remove the Petitioner as director effective from 31 December 2021 and to appoint two new directors to the board of the Company effective from 1 January 2022: Professor Michael Pettis and Professor Yu Yue (the **New Directors**).

41. The Petitioner has legitimate concerns that these appointments were simply window dressing by Mr Liang, and that, in reality, he will continue to have *de facto* control of the Company at the board level, as well as total voting control at the shareholder level. Even if the New Directors are competent, independent, and cognizant of their duties to the Company, they have only been in office for approximately 5 weeks, Mr Liang is deeply familiar with the business and therefore it can be expected they are heavily reliant on him, and, following the recent discoveries by the Manager, it is now clear that Mr Liang has a history of circumventing the proper corporate governance regime at the board level.

Discovery of Mr Liang's Illegitimate Conduct

42. On or around 22 November 2021, the Petitioner was made aware of the Unauthorised Amendments and the Unauthorised Supplemental Agreement, in circumstances where, not least

due to the trust and confidence vested in Mr Liang by the Petitioner, the Petitioner had no suspicions in respect of the same, or Mr Liang's wider course of wrongful conduct.

Proceedings in Hong Kong

43. On 28 December 2021, a writ was issued by the Manager in Hong Kong against Mr Liang and the Company, claiming that Mr Liang had (*inter alia*) breached his fiduciary and other employment duties to the Manager and asserting want of authority in respect of the Unauthorised Amendments and Unauthorised Supplemental Agreement.
44. On 30 December 2021, the High Court of the Hong Kong granted the Manager an interim injunction (**Injunction**), the terms of which (*inter alia*):
 - (a) Restrain Mr Liang from directing, causing or permitting the Company:
 - i. To carry out or to act upon the purported amendments made on 9 August 2021 to the IMA and/or the Unauthorised Supplementary Agreement to the IMA dated 16 November 2021.
 - ii. To pay any performance fees and/or allocate any performance allocation to Mr Liang (or such other person as Mr Liang may direct) as purported holder of the Performance Allocation Shares in the Company and/or to issue any further performance allocation shares to Mr Liang (or such other person as Mr Liang may direct).
 - (b) Restrain Mr Liang from transferring, charging, pledging, disposing of and/or otherwise dealing with or redeeming any Performance Allocation Shares and/or any dividends or other distributions arising therefrom.
45. The matter came back before the Court on 7 January 2022, when the Injunction was continued until a one-day inter partes hearing to be fixed, with directions for an exchange of evidence.

Suspension of Mr Liang

46. By letter dated 30 December 2021, the Board of the Manager notified Mr Liang that he was suspended from his duties and responsibilities as CEO and CIO with effect from 29 December 2021. In doing so, the Manager suspended Mr Liang's and his investment team's access to their email accounts with the Manager, their Bloomberg trading accounts and all other trading related tools and document folders.
47. The Injunction does not affect Mr Liang's role and rights as a director of the Company, and does not in terms seek to injunct his management of the Company's portfolio. Mr Liang has written

to the Manager stating that he is aware of this and has demonstrated a repeated intention to continue trading on behalf of the Company. The Petitioner avers that the proper understanding of the division of roles between the Manager, on the terms of the IMA, and Mr Liang as director does not permit the day-to-day management of the Fund's portfolio by him in his role as director, in place of the Manager, while the IMA is still continuing. The confusion created by Mr Liang acting otherwise is causing harm to the Fund, as its brokers are unclear as to who has the proper authority to manage the Fund's portfolio.

48. It plainly remains within the power of Mr Liang to take steps, whether legitimate or illegitimate, to seek to manage the investment portfolio of the Company, and persuade others he is authorized to do so, in circumstances where he continues to hold office as a director of (and is the sole holder of the Management Shares in) the Company. In seeking to do that to date, he has wrongfully and dishonestly referred to himself – in e-mails to the Company's brokers designed to convince them of his purported authority to provide instructions – as the "sole member" of the Company. As Mr Liang knows and knew full well, that is untrue. As at the end of November 2021, there were in fact 14 other members of the Company (including the Petitioner).

Brokers

49. All of the prime brokers dealing with the Company's assets have been notified of the Injunction, Mr Liang's suspension and the new authorised trading personnel in the Manager, namely Ms Rachel Kong and Ms Wing Lee.
50. Certain prime brokers of the Company are currently refusing to take instructions from either the Manager or Mr Liang as they are receiving conflicting accounts of which party is entitled to provide trading on behalf of the Company. In light of Mr Liang's actions and the current status quo, JP Morgan, BNP, UBS, Merrill Lynch and Macquarie have now initiated an account termination process. The brokers are likely to continue acting in this way for so long as the present state of confusion as to who has valid authority to trade on the Fund's behalf continues.

Grounds for Winding Up

51. In the premises, the Petitioner seeks a winding up order in respect of the Company on the basis that it is just and equitable for the Company to be wound up. In particular, the Petitioner relies upon the following grounds:

Lack of Probity and Loss of Confidence in Mr Liang

- (a) Mr Lau has justifiably and irretrievably lost all confidence in the Company's management because of a clear lack of probity of one of the Company's directors, who is also the Company's

sole voting member, Mr Liang. Mr Liang has abused and misused his power and authority in connection with his control and management of the Company and has acted in a manner that favours his own interests to the detriment of the interests of the Company and thereby Mr Lau and other investors. In particular, but without limitation, Mr Liang:

- i. Through the Unauthorised Scheme (as set out in paragraphs 23 – 36 above), attempted to secretly strip approximately US\$19,997,219.62 for his own benefit from the Company.
- ii. Through the Late Trade Allocations (as set out in paragraphs 37 – 39 above) has orchestrated a deliberate and cynical system to siphon moneys to the Hover4pi Funds (controlled by him and his wife) while simultaneously causing significant losses to the Company. In doing so he deliberately preferred the interests of the Hover4pi Funds, and ultimately himself, and has deliberately caused the Fund to suffer losses of approximately USD8,073,918.07;
- iii. Purported to make significant amendments to the Company's constitutional documents and the IMA;
- iv. Convened board meetings without providing the requisite notice to the Petitioner, who was entitled to such notice as a director, despite dishonestly recording the contrary in the relevant minutes;
- v. Passed resolutions at those board meetings by majority which, as he had been advised, he could have passed even if the Petitioner had attended the board meetings and not been agreeable, from which it can be inferred that Mr Liang was seeking to conceal his actions;
- vi. Generally sought to conceal his illegitimate actions and acted with a complete lack of transparency by failing to inform investors and the Manager of his conduct, in particular by (inter alia) failing to notify investors of the purported amendments to the PPM and by failing to keep Ms Kong informed of his actions;
- vii. Purported to create a new class of shares which he subsequently allocated to himself; and
- viii. Removed the Petitioner from the board of the Company.

Irretrievable Breakdown of a Quasi-Partnership and Unjustifiable Exclusion from Management in Disregard of the Petitioner's Legitimate Expectations

- (b) The Company is, and was operated by the Petitioner and Mr Liang, akin to a quasi-partnership and the personal relationship involving mutual trust and confidence on which it was founded and operated (as part of an effective 'consolidation' of the Petitioner's business through the Manager) has irretrievably broken down. The legitimate expectations that had arisen on account of that relationship and the understanding between Mr Liang and the Petitioner, have been disregarded by Mr Liang. Accordingly, there is no or any reasonable hope of reconciliation between Mr Liang and the Petitioner. In particular, but without limitation, Mr Liang:
- i. Sought to divert the entirety of the Performance Fee payable to the Manager to himself, notwithstanding the express agreement between Mr Liang and the Petitioner that approximately 20% of the Performance Fee would be payable to the Manager.
 - ii. Deliberately put in place the Unauthorised Scheme and dishonestly sought to conceal the same from the Petitioner by (inter alia) failing to notify him of important Board meetings of the Company when the Petitioner was a director, despite being required by the Company's Articles of Association to do so, and signing corporate documents of the Company as one of its directors, when those corporate documents expressly represented that the Petitioner had been given notice of the relevant Board meeting, when Mr Liang knew full well he had not. Those deliberately misleading corporate documents were then provided to the Company's (unsuspecting) Attorneys to create the impression that Mr Liang had followed their clear advice that notice of the meeting was required to be given to the Company's other directors; and
 - iii. Removed the Petitioner from the board of the Company and generally acted to exclude the Petitioner from the management of the Company, which was contrary to the Petitioner's legitimate expectation – based on the discussions and arrangements which formed the basis for his provision of the overwhelming majority of the Company's capital for investment – that he would always be involved in the management of the Company as a director.

Oppression, Prejudice and Undermining of the Petitioner's Rights and Interests

- (c) Mr Liang has used his complete voting power in respect of the Fund to cause oppression and prejudice to Mr Lau's interests as a shareholder, exclude him from the Fund's management as a director and to further his own personal interests. In the premises above, Mr Liang conducted and is likely to continue to conduct the Fund's business in such a way that the rights and interests of the Petitioner, and the Company itself, have been disregarded and undermined

such that it would be unjust and inequitable for the Petitioner to be forced to remain as a member of the Company.

The Urgent Need for an Investigation

- (d) In less than 3 months since November 2021, the Petitioner and the Manager have discovered a series of dishonest and deliberately concealed acts on the part of Mr Liang – the Unauthorised Scheme (relating to the attempted diversion by Mr Liang of over USD19m in performance fees), and the Late Trade Allocations (relating to losses caused to the Fund of over USD8m). Both matters have now been reported by the Manager to the Regulator and the Police in Hong Kong. The Unauthorised Scheme is also the subject of civil proceedings in Hong Kong brought by the Manager, in which an *ex parte* Injunction against Mr Liang has been granted. The discovery of the Unauthorised Scheme, the Late Trade Allocations together with the lack of transparency and concealment around both, urgently requires an independent investigation by independent liquidators into the affairs of the Fund. Relatedly, there is also an urgent need for further investigation into Mr Liang’s actions, expanding an initial detailed investigation Mr Lau has already caused to be undertaken, which led to the discovery of the Late Trade Allocations.
52. As a result of the matters pleaded above, the liquidation of the Company under the supervision of an independent party has become necessary to guarantee a fair and transparent monetisation of the assets.

Nomination of Joint Official Liquidators

53. The Petitioner nominates Ms Eleanor Fisher of EY Cayman Ltd, 62 Forum Lane, Camana Bay, P.O. Box 510, Grand Cayman KY11106, Cayman Islands and Mr Tsui Chi Chiu and Ms So Kit Yee Anita of Ernst & Young Transactions Limited, 27/F One Taikoo Place, 979 King’s Road, Quarry Bay, Hong Kong SAR for appointment as joint provisional and official liquidators of the Company (the **Nominated JPLs and JOLs**). Ms Fisher, Mr Chiu and Ms Anita have confirmed that after making due enquiries they are not aware of any conflicts of interest that would prevent them from accepting the appointment as JPLs or JOLs.

YOUR PETITIONER THEREFORE HUMBLY PRAYS THAT:

1. The Company be wound up in accordance with section 92(e) of the Act.
2. Ms Eleanor Fisher of EY Cayman Ltd, 62 Forum Lane, Camana Bay, P.O. Box 510, Grand Cayman KY11106, Cayman Islands and Mr Tsui Chi Chiu and Ms So Kit Yee Anita of Ernst & Young

Transactions Limited, 27/F One Taikoo Place, 979 King's Road, Quarry Bay, Hong Kong SAR be appointed as Liquidators of the Company.

3. The Liquidators shall not be required to give security for their appointment.
4. The Liquidators be authorized to exercise any of the powers conferred on them by the Court pursuant to section 110(2) and Parts I and II of the Third Schedule to the Act, without further sanction or intervention of the Court.
5. The Liquidators 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 and to prevent the dissipation of the Company's assets.
6. The Liquidators' remuneration and expenses be paid out of the assets of the Company in accordance with Part III of the Insolvency Practitioners' Regulations, 2018 and Order 20 of the Companies Winding Up Rules, 2018.
7. No suit, action or other proceeding shall be proceeded with or commenced against the Company except with the leave of the Court and subject to such terms as the Court may impose.
8. No disposition of the Company's property by or with the authority of the Liquidators in carrying out their duties and functions and exercise of their powers under this Order shall be voided by virtue of section 99 of the Act.
9. The Liquidators be at liberty to appoint counsel, attorneys, professional advisers 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 to remunerate them out of the assets of the Company.
10. The Liquidators and their staff be remunerated out of the assets of the Company at their usual customary rates.
11. The Liquidators be at liberty to apply generally.
12. The costs of this Petition and the Petitioner be paid out of the assets of the Company as an expense of the liquidation, such costs to be taxed if not agreed with the Liquidators.
13. Alternatively, such directions as to the conduct of the Company as the Court shall in all the circumstances deemed necessary to ensure the proper conduct of the Company's management and affairs.

14. Such further and/or other relief be granted as the Court deems appropriate.

AND your Petitioner will ever pray.

Dated the 3rd day of February 2022

Filed the day of February 2022



APPLEBY (CAYMAN) LTD
Attorneys-at-Law for the Petitioner

NOTE: This Petition is intended to be served on:

The Company, c/o Ogier, 89 Nexus Way, Camana Bay, Grand Cayman, KY1-9009,
Cayman Islands

THIS PETITION was filed by Appleby (Cayman) Ltd., Attorneys-at-Law for the Petitioner, whose address for service is 71 Fort Street, PO Box 190, KY1-1104, George Town, Grand Cayman, Cayman Islands. (Ref: 453548.0001 SS/CK)

NOTICE OF HEARING

TAKE NOTICE THAT the hearing of this petition will take place at the Law Courts, George Town, Grand Cayman on the day of 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, Cayman Islands, KY1-1106 telephone (+1 345) 949 4296.