



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

**FSD CAUSE NO.      OF 2022 (    )**

**IN THE MATTER OF SECTION 131 OF THE COMPANIES ACT (2022 REVISION)**  
**AND IN THE MATTER OF CIVC INVESTMENT LIMITED (IN VOLUNTARY**  
**LIQUIDATION)**

**BETWEEN**

**AINSBURY PROPERTIES LIMITED**

**PETITIONER**

**AND**

**CIVC INVESTMENT LIMITED**

**RESPONDENT**

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**PETITION**

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**To the Grand Court**

The humble petition of Ainsbury Properties Limited (**APL** or the **Petitioner**) of P.O. Box 438, Tropic Isle Building, Road Town, Tortola, British Virgin Islands, shows that:

**The Company**

1. CIVC Investment Limited (the **Company**) is a company incorporated in the Cayman Islands on 25 January 2008, with its current registered office at Maples Corporate Services Ltd, Uglan House, Grand Cayman KY1-1104, Cayman Islands.
2. The Company's shares are presently held by the following parties in the following

proportions:

- a. 40 ordinary shares and 10,000 preference shares held by APL;
  - b. 50 ordinary shares and 10,000 preference shares held by SCGC Capital Holding Company Ltd (**SCGC**); and
  - c. 10 ordinary shares held by Neurone II Investment GP Limited (**PNV**);
3. According to the terms of the Company's Memorandum and Articles of Association,
- a. Ordinary shares refer to the voting ordinary shares of US\$0.001 par value each in the authorized capital of the Company;
  - b. Preference shares refer to the redeemable non-voting preference shares of US\$0.001 par value each in the authorized capital of the Company;
  - c. For completeness, one CIVC Management Ltd was appointed as the Management Company of the Company at the Company's inception, holding 1 management share. However, the management share was repurchased by the Company on 21 March 2011.
4. The Company entered into an investment agreement with Ainsbury Properties Limited, VSPR Ltd (**VSPR**), PNV, and CIVC Management. Under the terms of the investment agreement (as amended, the **Investment Agreement**), both APL and SCGC committed to invest in the Company an amount of \$10 million each. The Investment Agreement further provided that the Company is to operate as an investment company to make investments in companies which have activity or potential activity in China and Chinese-related companies, and that the Company will use its best efforts to appreciate its assets by making several portfolio investments in China. For the avoidance of doubt, any reference to the Investment Agreement refers to and includes all the subsequent amendments to the original investment agreement,

the most updated of which is Amendment No. 4 dated 16 March 2011.

5. The Investment Agreement also provided that the Board of Directors of the Company is to comprise up to four directors, out of which two are to be appointed by SCGC, and the other two to be appointed by PNV and VSPR (thereafter by APL) respectively.
6. As at the date of this petition, the directors of the Company are:
  - a. APL, represented by Mr Shai Reicher and Mr Tidhar Golan;
  - b. Mr Yigal Livne (**Mr Livne**), who was appointed by PNV;
  - c. Mr Qiu Shuo (**Mr Qiu**), who was appointed by SCGC; and
  - d. Mr Jiang Yucai (**Mr Jiang**), who was also appointed by SCGC.
7. Over the course of 2008 to 2010, the funds that were transferred by APL and SCGC to the Company were used to invest in a diverse portfolio of both private and public Chinese companies. At its peak, the Company's investment portfolio consisted of nine investments.
8. Typically, the manner in which these investments were carried out were as follows: SCGC would take the lead as primary investor, investing a more significant amount into the identified portfolio companies; the Company would then "tag-along" on those investments, albeit of smaller investment sums. The rationale behind this approach was that SCGC's investment decisions would typically yield good returns which the Company would then "piggy-back" on.
9. That being said, the Company did not exit these investments at the same time and in the same manner as SCGC, which in turn caused the Company to suffer losses. By 2014, the Company's portfolio consisted only of five investments. Since then, this has

remained stagnant save for the exit of one of the Company's investment in or around January 2019.

10. To the best of the Petitioner's knowledge, the Company has bank accounts located in Shenzhen, People's Republic of China. Some of the Company's assets are being held by SCGC on its behalf as a nominee holder. It is not known if the Company has any other assets in the People's Republic of China, and if the Company currently holds any assets in the Cayman Islands. Despite the fact that the Petitioner is a director of the Company, the Petitioner has only limited information about the Company's financial position and assets. This is due to the manner in which the Company was managed:

- a. Pursuant to clause 18.2 of the Investment Agreement, financial services were provided to the Company by SCGC from its offices in China.
- b. Pursuant to Art. 35.6 of the Company's Memorandum and Articles of Association, all investment decisions were made on behalf of the Company by an Investment Committee consisting of persons nominated by SCGC and PNV.

As such, the Petitioner's involvement in the financial and investment aspects of the Company's business was limited, its contribution as director being restricted to attending board meetings and reviewing draft yearly financial statements when approval of the board was required. The Petitioner does not have any direct access to the Company's records (financial or otherwise) and is only made aware of matters when it is reported to the board or by abrupt updates given by PNV at various occasions.

11. In view of the matters set out at paragraph 14 below, on 4 November 2021, the Company, acting through the Petitioner and PNV, passed a special resolution for the winding up of the Company. However, the shareholders voting and present at the

convened extraordinary general meeting were not able to agree on the identity of the liquidator to be appointed.

12. In addition, for the reasons stated at paragraph 10 above, the Petitioner is currently unable to ascertain with certainty the financial position of the Company. The Petitioner is therefore unable to sign a declaration of solvency in its capacity as one of the directors of the Company.
13. In the circumstances, in its position as a contributory of the Company, the Petitioner humbly seeks an order from this Honourable Court that a supervision order be made such that the winding up of the Company will continue under the supervision of this Court.

#### **Matters leading up to the extraordinary general meeting**

14. For several years up to and including 2021, SCGC had not been as engaged in the management of the Company as it originally was. The Petitioner does not know the reason for this, but it has been suggested to the Petitioner by PNV that this may have been at least in some part due to internal personnel changes at SCGC. Having discussed the state of the Company's affairs extensively with PNV, the Petitioner and PNV were of the collective view that it would be ideal that the Company be wound up, given that the other directors have evinced an intention not to be further involved in the Company's affairs.
15. In view of the matters set out at paragraph 14 above, on 10 October 2021, in its capacity as shareholder of the Company holding not less than ten percent of the issued and outstanding share capital of the Company, the Petitioner issued a Members' Requisition to the Company's Board of Directors, requesting that the Company's Board of Directors call a general meeting of members to pass special resolutions for, *inter alia*, placing the Company into voluntary liquidation.

16. Thereafter, the Petitioner, in its capacity as one of the directors of the Company, proceeded to convene the extraordinary general meeting by issuing a Notice of Extraordinary General Meeting on 20 October 2021. According to the terms of the Company's Memorandum and Articles of Association, at least five clear days' notice must be given of any general meeting. The extraordinary general meeting was therefore fixed for 28 October 2021.
17. Neither PNV nor SCGC responded to the Notice of General Meeting; they also did not attend the 28 October 2021 meeting, which was convened via Zoom. The extraordinary general meeting was then adjourned to one week thereafter, 4 November 2021. SCGC and PNV were informed of the same via email on 28 October 2021.
18. The adjourned meeting was convened successfully on 4 November 2021, with representatives from PNV and the Petitioner in attendance. The necessary quorum for the meeting was therefore met.
19. At the extraordinary general meeting, four resolutions were tabled for discussion and voting, the first in relation to the voluntary liquidation of the Company, and the subsequent three in relation to the appointment of the proposed liquidators and the terms of their appointment.
20. Both PNV and the Petitioner voted, through their representatives, in favour of the first resolution, that is, the resolution for the voluntary liquidation of the Company. A special resolution was therefore successfully passed in respect of the resolution for the winding up of the Company.
21. As regards the subsequent three resolutions, however, PNV took the position that it abstained from voting. In the circumstances, the resolutions in relation to the appointment of Elizabeth Mackay of Kalo (Cayman) Limited and Lau Wing Yi of Perun Consultants Limited as joint liquidators was not successfully passed.

22. In the premises, voluntary liquidation of the Company commenced on 4 November 2021, but, to date, no voluntary liquidators have been appointed.

**Application for a Supervision Order pursuant to section 131 of the Companies Act**

23. The Petitioner therefore seeks, by way of this petition an order that the winding up of the Company continue under the supervision of this Honourable Court.

24. The Petitioner seeks a Supervision Order on the ground in s. 131(b) of the Companies Act, namely, that the supervision of the Court will facilitate a more effective, economic or expeditious liquidation of the Company in the interests of the contributories and creditors. The Company is in voluntary liquidation, but the office of voluntary liquidator has been left vacant due to the shareholders' failure to pass a resolution appointing a voluntary liquidator. A liquidation conducted by an official liquidator will plainly be more effective, economic and expeditious in the interests of contributories and creditors than a liquidation with no liquidator at all to conduct it.

25. As stated above, the Petitioner, in its capacity as one of the directors of the Company, has not been able to conduct a full enquiry into the affairs of the Company. In the circumstances, the Petitioner is also unable to ascertain whether the Company will be able to pay its debts in full within the period not exceeding twelve months from the commencement of the winding up. The Petitioner therefore has not signed a Declaration of Solvency.

**Application in the alternative for the appointment of voluntary liquidators pursuant to section 119(4)(b) of the Companies Act and CWR O 13 R 3(5)**

26. In the alternative to the primary relief sought at paragraphs 23-24 above, if the Court is not minded to make a Supervision Order, the Petitioner seeks an order pursuant to s. 119(4)(b) of the Companies act and pursuant to CWR O 13 R 3(5) appointing the persons identified at paragraph 26 below as Joint Voluntary Liquidators of the

Company. The office of the voluntary liquidator being currently vacant and the shareholders having failed to pass a resolution appointing a voluntary liquidator, the grounds for this alternative relief are made out.

**Proposed appointment of Elizabeth Mackay and Lau Wing Yi as Joint Official Liquidators of the Company (alternatively, as Joint Voluntary Liquidators of the Company).**

27. As stated above, the Petitioner proposes the appointment of the following persons as Joint Official Liquidators (alternatively, Joint Voluntary Liquidators) of the Company:

- a. Elizabeth Mackay of Kalo (Cayman) Limited, PO Box 776, 38 Market Street, Suite 4208, Canella Court, Camana Bay, Grand Cayman, KY1-9006, Cayman Islands; and
- b. Lau Wing Yi of Perun Consultants Limited, 7/F, Hollywood Commercial House, 3-5 Old Bailey St, Central, Hong Kong.

**THE PETITIONER THEREFORE HUMBLY PRAYS THAT:**

- (1) A supervision order such that the winding up of the Company is subject to the supervision of the Court pursuant to section 131 of the Cayman Companies Act be made;
- (2) That Elizabeth Mackay of Kalo (Cayman) Limited, PO Box 776, 38 Market Street, Suite 4208, Canella Court, Camana Bay, Grand Cayman, KY1-9006, Cayman Islands, and Lau Wing Yi of Perun Consultants Limited, 7/F, Hollywood Commercial House, 3-5 Old Bailey St, Central, Hong Kong, be appointed as the Joint Official Liquidators of the Company (the **Liquidators**) as follows:

- a. the Liquidators shall not be required to give security for their appointment;
- b. the Liquidators shall have the power to act jointly and severally in their capacity as joint liquidators of the Company;
- c. in addition to their powers prescribed in Part II of the Third Schedule to the Companies Act which are exercisable without sanction of this Court, the Liquidators shall be authorised to exercise the following powers without further sanction or intervention from the Court:
  - i. bring or defend any action or other legal proceeding in the name and on behalf of the Company;
  - ii. dispose of any property of the Company to a person who is or was related to the Company;
  - iii. pay any class of creditors in full;
  - iv. deal with all questions in any way relating to or affecting the assets of the winding up of the Company, to take any security for the discharge of any such call, debt, liability or claim and to give a complete discharge in respect of it;
  - v. sell any of the Company's property by public auction or private contract with power to transfer the whole of it to any person or to sell the same in parcels;
  - vi. control and otherwise deal with all existing bank accounts in the name of the Company and to open new bank accounts in the name of the Company;
  - vii. carry on the business of the Company so far as the Liquidators consider necessary for its beneficial winding up;
  - viii. engage staff (whether or not as employees of the Company and whether located in the Cayman Islands or elsewhere) as the

Liquidators consider necessary to assist them in the performance of their duties, on such terms as the Liquidators may think fit, and to remunerate them out of the assets the Company as an expense of the official liquidation;

- ix. engage counsel, attorneys, and/or other professional advisors (whether in the Cayman Islands or elsewhere) as the Liquidators consider necessary to assist them in the performance of their duties, on such terms as the Liquidators may think fit, and to remunerate them out of the assets the Company as an expense of the official liquidation;
- x. pursue applications and/or proceedings in any other jurisdiction for recognition of the liquidation and/or their appointment and/or to obtain information they require to perform their duties;
- xi. apply for further directions concerning their functions and the exercised or proposed exercise of their powers,

and for the avoidance of doubt, the powers bestowed on the Liquidators may be exercised by them within and outside the Cayman Islands;

- d. 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 shall be voided by virtue of Section 99 of the Companies Act;
- e. The Liquidators shall have the authority and are directed to take possession of, collect and get in any property of the Company in the name of the Company and for that purpose to take any proceedings in any jurisdiction that they consider necessary;
- f. The Liquidators' remuneration and expenses be paid out of the assets of the Company in accordance with the Companies Winding Up Rules 2018 and Part III of the Insolvency Practitioners' Regulations 2018;
- g. The costs of the Petitioner be paid out of the assets of the Company as an

expense of the liquidation, such costs to be taxed on the indemnity basis if not agreed with the Liquidators;

- h. The Liquidators be at liberty to apply generally; and/or
- i. Such other relief be granted as the Court deems appropriate.

AND your Petitioner will ever pray etc.

Dated this 7th day of February 2022



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Carey Olsen

**NOTE:** This Petition is intended to be served on the Company and the Company's shareholders (SCGC Capital Holding Company Ltd, and Neurone II Investment GP Limited).

**THIS PETITION** was issued by Carey Olsen, Attorneys for the Petitioner, whose address for service is Level 1, Willow House, Cricket Square, Grand Cayman, Cayman Islands, KY1-1001.

**NOTICE OF HEARING**

**TAKE NOTICE THAT** the hearing of this petition will take place at the Law Courts, George Town, Grand Cayman on *28<sup>th</sup> of March 2022* at *10:00 am*

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, KY1-1106, telephone 345 949 4296.