



IN THE GRAND COURT OF THE CAYMAN ISLANDS

FINANCIAL SERVICES DIVISION

FSD NO. 70 OF 2021 (RPJ)

IN THE MATTER OF THE COMPANIES ACT (2021 REVISION)

AND IN THE MATTER OF PERFORMANCE INSURANCE COMPANY SPC (IN OFFICIAL LIQUIDATION)

Before the Honourable Justice Parker

ORDER

UPON reading the Summons of ABM Wappingers Inc (the sole shareholders of Bottini Insurance SP (“**Bottini**”)) and Mollie Rea, Patrick Gallagher, and Candice Comunale (the shareholders of SSS Insurance SP (“**SSS**”)) of 17 November 2021 and seeking an order that Angela Barkhouse be appointed as additional joint liquidator (“**AJOL**”) in the official liquidation of Performance Insurance Company SPC (the “**Company**”).

AND UPON reading the First Affidavit of Paul Vargo dated 16 November 2021, and the exhibit thereto.

AND UPON reading the First Affidavit of Mark Bottini dated 18 November 2021, and the exhibit thereto.

AND UPON reading the Fourth Affidavit of Kenneth Kryz dated 28 January 2022, and the exhibit thereto.

AND UPON the Court hearing submissions from counsel for the Applicants and counsel for the Joint Official Liquidators (Kenneth M. Kryz and Neil S. Dempsey (the “**JOLs**”)) of the Company.

AND UPON the Court being satisfied that Angela Barkhouse is a qualified insolvency practitioner who is willing and properly able to accept appointment as AJOL of the Company.



IT IS ORDERED THAT:

1. Angela Barkhouse, of Quantuma (Cayman) Ltd t/a Quantuma, of 4th Floor, N404, Flagship Building, 142 Seafarers Way, George Town, Grand Cayman, Cayman Islands, be appointed as AJOL.
2. The AJOL shall be empowered to act in respect of the applicants, Bottini and SSS, only and to the exclusion of the JOLs. The AJOL shall have no authority to act on behalf of the Company or any other segregated portfolios of the Company.
3. The AJOL shall not be required to give security for her appointment.
4. In addition to the powers prescribed in Part II of the Third Schedule to the Companies Act (2021 Revision) which are exercisable without the sanction of the Court, the AJOL shall be authorised to exercise, within and outside the Cayman Islands, and without further sanction of this Honourable Court, the powers to:
 - a. collect, realise and distribute the assets of Bottini and SSS in accordance with the Companies Act (2021 Revision) through novation agreement or otherwise as she thinks fit;
 - b. deal with all questions in any way relating to or affecting the assets or winding up of Bottini and SSS;
 - c. engage attorneys and other professionally qualified persons, whether in the Cayman Islands or elsewhere, to assist in the performance of her functions, on such terms as she thinks fit, and to remunerate them out of the assets of Bottini and SSS as an expense of the official liquidation;
 - d. The power to pay any class of creditors in full;



- e. The power to make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging themselves to have any claim (present or future, certain or contingent, ascertained or sounding only in damages) against Bottini or SSS, or for which Bottini or SSS may be rendered liable; and,
 - f. The power to compromise on such terms as may be agreed all debts and liabilities capable of resulting in debts, and all claims (present or future, certain or contingent, ascertained or sounding only in damage) subsisting, or supposed to subsist between Bottini or SSS and a contributory or alleged contributory or other debtor or person apprehending liability of Bottini or SSS.
5. The AJOL's engagement of Collas Crill as their Cayman counsel be sanctioned by the Court.
6. The AJOL shall make her own determination of solvency for Bottini and SSS as soon as practicable following her appointment.
7. The AJOL shall hold the books and records for Bottini and SSS and shall have access to such other books and records of the Company as she reasonably requires to fulfil her duties from whomsoever holds them on behalf of Bottini and SSS. To the extent that the AJOL makes any request to the JOLs for delivery and production of the books and records of Bottini and SSS the AJOL shall pay the reasonable costs of the JOLs in acceding to that request, such costs to be assessed if not agreed.
8. The AJOL shall report to the shareholders of Bottini and SSS and to the Court only.
9. The AJOL be authorised to take any such action as may be necessary or desirable to obtain recognition of the AJOL and/or their appointment and/or powers in any other relevant jurisdiction, including, without limitation, the United States of America, and to make application to the courts of such jurisdictions for that purpose. This includes applying to be added to the existing relief granted under Chapter 15 of Title 11 of the United States Bankruptcy Code, if so



advised. The costs of doing so shall be paid out of the assets of Bottini and SSS. To the extent the JOLs or their advisors have any involvement in the AJOL being added to the existing relief granted under Chapter 15 of Title 11 of the United States Bankruptcy Code, the JOLs shall be entitled to be paid their reasonable remuneration and expenses out of the assets of Bottini and SSS, such fees and expenses to be assessed if not agreed.

10. The AJOL's remuneration and expenses shall be paid for out of the assets of Bottini and SSS, only, as an expense of the official liquidation, subject to the approval of the Court, and without recourse to the assets of the Company or any other segregated portfolio of the Company.
11. The JOLs shall, from the date of this Order, not be entitled to allocate any fees of the liquidation of the Company to Bottini and SSS, and that henceforth the applicants (Bottini and SSS) shall not be liable for the JOLs' fees. Insofar as the JOLs incur fees and expenses pursuant to requests of the AJOL (and in connection with Bottini and SSS only), the AJOL shall be entitled to agree any such fees and expenses with the JOLs, such fees and expenses to be assessed if not agreed. The JOLs shall be permitted to maintain their application for the Court approval of their remuneration and expenses from 26 February 2021 up to 31 July 2021 and from 1 August 2021 up to the date of this Order, including the allocation of their remuneration and expenses to Bottini and SSS.
12. The general liabilities of the Company or general liquidation fees and expenses of the Company, or liabilities or liquidation fees and expenses of any other of the SPs, shall not be allocated to Bottini or SSS without an order of this Honourable Court or the prior written consent of the respective shareholders of those segregated portfolios.
13. The JOLs are hereby released from their duties and discharged from their role as joint official liquidators in respect of Bottini and SSS and the JOLs shall not be required to make a final report and accounts to the Court, the AJOL or anyone else. The JOLs shall not be required to retain copies of the books and records in respect of Bottini and SSS, and shall be permitted to destroy any copies within three (3) months of the AJOL collecting the books and records of Bottini and SSS. The JOLs' existing roles and duties are otherwise unaffected by this Order.

14. The AJOL's costs of the Summons shall be paid out of the assets of Bottini and SSS, as an expense of the liquidation.

15. The Applicants and the JOLs shall have leave to make separate written submissions confined to 10 pages each as to the costs of this hearing which shall be determined by the Court on the papers unless otherwise directed.

16. The AJOL and JOLs shall have liberty to apply for directions.

Dated this 15th day of February 2022

Filed this 15th day of February 2022

THE HON. JUSTICE PARKER
JUDGE OF THE GRAND COURT

THIS ORDER was filed by Campbells LLP, attorneys for Applicants, whose address for service is Floor 4, Willow House, Cricket Square, PO Box 884, George Town, Grand Cayman KY1-1103, Cayman Islands