



**D COURT OF THE CAYMAN ISLANDS  
SERVICES DIVISION**

**CAUSE NO: FSD**

**OF 2022 ( )**

**IN THE MATTER OF THE COMPANIES ACT (2021 REVISION)**

**AND IN THE MATTER OF OBELISK GLOBAL FUND SPC**

**AND IN THE MATTER OF OBELISK GLOBAL GOLD FOCUS FUND**

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**PETITION**

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**To:** The Grand Court

**THE HUMBLE PETITION** of **XU, Eryi**, of Flat F 51/F Star Sky The Cullinan No. 1 Austin Road West Kowloon Hong Kong (the **Petitioner**) **SHOWS THAT:**

**Summary**

1. The Petitioner seeks the appointment of Margot McInnis of Grant Thornton Specialist Services (Cayman) Limited to act as a receiver over Obelisk Global Gold Focus Fund (the "**Fund**"), pursuant to section 224 of the Companies Act (2021 Revision), (the "**Act**") on the grounds that:
  - 1.1. The Fund is unable to pay its debts; and
  - 1.2. The appointment of receiver will enable the orderly closing down of the business of the Fund and the distribution of the Fund's assets to those persons entitled to have recourse thereto.
2. The appointment of receiver will also enable independent investigations to be conducted into the conduct of the Fund thereby protecting its creditors and/or contributories.

**Background**

3. The Petitioner is a resident of Hong Kong S.A.R., the People's Republic of China ("**Hong Kong**").
4. The Petitioner's address is Flat F 51/F Star Sky The Cullinan No. 1 Austin Road West Kowloon Hong Kong.

5. The Petitioner understands that the Fund is one of at least two segregated portfolios of Obelisk Global Fund SPC ("**OG SPC**") together with WE Affluence Gold Fund ("**WE AGF**").
6. OG SPC was incorporated in the Cayman Islands on 12 June 2013 as a segregated portfolio company under the Act with the registration number 278499 and holds a mutual fund licence issued by the Cayman Islands Monetary Authority.
7. OG SPC's registered office is at 3rd Floor, One Capital Place, George Town, PO Box 1564, Grand Cayman.
8. OG SPC's stated business is to provide attractive investment opportunities in a variety of markets and jurisdictions located throughout the world via its preferred shares developed through a segregated portfolio corporate structure. OG SPC further states that it specialises in creating funds that offer low risk, high yield fixed returns, that are non-correlated to the markets and interest rates.
9. The Petitioner understands that the main business of OG SPC, the Fund and WE AGF relates to the sourcing and pre-financing of gold dore ("**Dore**") from mines in both East and West Africa for transportation and delivery to gold refineries outside Africa.
10. As at the date of this Petition, it is understood that the directors of OG SPC [Confirmed base on our information] are (the "**Directors**"):
  - 10.1. Mr Lawrence Winfield Sifton ("**Mr Sifton**"); and
  - 10.2. Mr Matthew Ho ("**Mr Ho**").
11. The Shareholders of OG SPC are:
  - 11.1. Mr Ho;
  - 11.2. Mr Jazeb Jay Jones ("**Mr Jones**"); and
  - 11.3. Worldwin Investments Limited.
12. The Petitioner is unaware of the shareholdings of the Fund or WE AGF.
13. The Fund is registered in the Cayman Islands and is licenced by the Cayman Islands Monetary Authority ("**CIMA**") as an open-ended mutual fund. The Fund is organised as a segregated portfolio company ("**SPC**") with a number of segregated portfolios making up the Fund.
14. The registered address of the Fund is c/o Centralis Cayman Limited One Capital Place, 3rd Floor PO Box 1564, Grand Cayman Cayman Islands, KY1-1110.

**The Factual Grounds Supporting the Appointment of Receiver**

15. The Petitioner invested US\$600,000.00 into the Fund by entering into a subscription agreement dated 23 October 2018 (the "**Agreement**"), purchasing 600 shares Class A Preferred Shares (the "**Shares**"). The \$600,000 subscription was transferred to the OG SPC on 24 October 2018, for specific allocation to the Fund.
16. As part of the Agreement, inter alia:
  - 16.1. The Shares are not redeemable by the shareholders of the respective segregated portfolios;
  - 16.2. The Investment Period is 12 months from the date upon which invested capital is invest in a Gold Production Project;
  - 16.3. The Board of Directors in its sole discretion may compel redemption of the shares without notice;
  - 16.4. There is no applicable timetable or deadline to determining the Net Asset Value ("**NAV**") in any given period;
  - 16.5. If the rights of the Shareholders are to be varied and such variation is materially adverse to the interest of the Shareholders, the directors may implement a negative consent procedure i.e. upon 30 days' notice, the shareholders may submit a request for redemption for their shares, in the absence of which the shareholders would be deemed to have consented to the variation;
  - 16.6. Each shareholder may inspect unaudited year-end financial statements of their respective segregated portfolio during the period which they hold or held shares;
  - 16.7. Each Shareholder is, at the Directors' sole discretion and if practicable, entitled to receive quarterly distribution of Capped Return Amounts (the "**Dividends**") as defined in the "Confidential Memorandum Relating to WE Affluence Gold Fund Class A Preferred Shares of Obelisk Global Fund SPC" (the "**Portfolio Supplement**");
  - 16.8. The Directors may at any time execute a form causing the Shareholder to surrender his/her shares with the Redemption Amount to be paid "*generally within 60 days of the Surrender Date*" ("**Repayment Period**");
  - 16.9. The director may declare a temporary suspension of the Repayment Period if, inter alia, any Gold Production Project has been delayed, where business operations of the

Manager or Administrator are affected by events of *force majeure* or if it is deemed to be in the best interest of the portfolio;

- 16.10. The investors are prohibited from filing a winding up application on the just and equitable basis against the portfolio in the Cayman Islands or any other equivalent application before the courts of any other jurisdiction in connection with the suspension of the calculation of the NAV, the investor's redemption rights (if any) or the right to receive redemption proceeds.
17. On or around 15 February 2019, the Fund advised by email that the 2018 Q4 dividend was to be paid the following week, as the Fund would then be in a position to complete the most recent NAV from Bloomberg (as the Fund was registered with Bloomberg). On 25 March 2019, there then followed a further update from the Fund that the 2018 Q4 dividend would be paid in "a matter of days".
18. On 6 April 2019, there then followed a further email as to a further delay in the payment of the Fund 2018 Q4 dividend, stating that it would be paid on 8 or 9 April, and the 2019 Q1 dividend to be paid around 20 April 2019 following completion of the March 2019 NAV. The reason for the delay was specified to be a hurdle which limited the Fund's supplier's ability to finalise gold processing and it was anticipated that future quarterly payments would be operating smoothly. The Q4 2018 dividend was further delayed due to incomplete subscription documents filed by the investors, with the dividend paid on 16 April and the Q1 2019 dividends paid on 7 May 2019.
19. Whilst there were delays relating to the Fund, WE AGF finalised its March 2019 NAV and processed payment for its Q1 2019 dividend. The Fund stated that due to new banking protocols, its payment had to be processed manually hence the delay in payment with payment expected to be made by 8 April 2019.
20. Sometime in November 2019, the Petitioner, through a representative, enquired as to her status to sell her investment as her lockup period would soon expire. Mr Jones, through an email, confirmed that if the Petitioner wished, the Petitioner should provide a redemption request and he would speak to the Directors and have it accepted.
21. On 8 November 2019, through the Petitioner's representative and via email, the Petitioner advised the Fund that she would like to redeem following the end of her lockup period. The Petitioner also enquired about her missing quarterly dividend payment (the "**Redemption Request**"). The Fund confirmed receipt of the Redemption Request 8 November 2019.
22. On 18 June 2020, the Fund sent out copies of client statements from September to November 2019 to the Petitioner with an April 2020 performance report stating that the investment was a Preferred Note with no outstanding dividends.

23. On 30 June 2020, Mr Jones advised that the outstanding redemptions were converted from preferred shares to notes payable as the shares were redeemed, and that the Fund would provide capital and interest owed to date.
24. Despite the above correspondence, the Petitioner has not received any funds in respect of her redemption of her investment, and has not received dividends since and including October 2019 despite those having been declared by the Fund.
25. The Petitioner originally invested US \$600,000 into the Fund. The Petitioner has not had that sum repaid to her following her redemption request, and further has not received payment of dividends that have been declared by the Fund. Accordingly, in addition to being an investor with standing to seek the appointment of a receiver, she is a creditor of the Fund in the sum of at least US\$600,000.00, plus interest (the "**Debt**").
26. As of the date of this Petition the Fund has not repaid the Debt.
27. In a judgment delivered on 12 August 2021 by the Honourable Mr Justice Raj Parker of the Grand Court of the Cayman Islands, Financial Services Division, Cause No. FSD 87 of 2021, in respect of a different creditor's application to appoint receiver over the Fund, at paragraph 41 it is stated that:
- As there is no dispute that the Fund currently has insufficient assets to meet the claims of its creditors, the court has jurisdiction to make a receivership order.*
28. In Mr Justice Parker's judgment mentioned above, the "Fund" is the same Fund as defined in this Petition. The Fund has been insolvent since at least 12 August 2021.

#### **Statutory Grounds for Appointment of Receiver**

29. This Petition is made pursuant to section 93(a) and 224 of the Act on the basis that the Fund is unable to pay its debts and that a receivership order will promote (i) the orderly closing down of the business of, or attributable to, the Fund; and, (ii) thereafter the distribution of the Fund's assets attributable to it to those entitled to have recourse thereto.

#### **YOUR PETITIONER THEREFORE HUMBL Y PRAYS AS FOLLOWS:**

1. That a receivership order be made in relation to the Fund pursuant to section 224 of the Act.
2. That Margot McInnis of Grant Thornton Specialist Services (Cayman) Limited be appointed jointly and severally as receiver over the Fund.
3. That the business and segregated portfolio assets of the Fund shall be managed by the Receivers for the purposes specified in section 224(3) of the Act.

4. That the Receiver be authorised to exercise the following powers:
  - a. To exercise the powers conferred on the Receiver by section 226 of the Act;
  - b. To pay any class of creditors in full;
  - c. To make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging themselves to have any claims (present or future, certain or contingent, ascertained or sound only in damages) against the segregated assets of the Fund or for which the segregated assets of the Fund may be held liable;
  - d. To compromise on such terms as may be agreed all debts or liabilities (present or future, certain or contingent, ascertained or sounding only in damages) as between the Fund and any party against who the Fund may have a claim;
  - e. To deal with all questions in any way relating to or affecting the assets or the orderly closure of the Fund;
  - f. To engage staff to assist them in the performance of their functions;
  - g. To engage attorneys and other professionally qualified persons in the Cayman Islands or elsewhere to assist them in the performance of their functions;
  - h. To take possession of, collect and get the segregated assets of the Fund and for that purpose to take all such proceedings as they consider necessary;
  - i. To do all acts and execute, in the name of and on behalf of the Fund, all deeds, receipts and other documents;
  - j. To convene meetings of creditors; and
  - k. To do all other things incidental to the exercise of their powers.
5. That the Receiver's fees and expenses be payable out of the segregated assets of the Fund pursuant to section 228 of the Act in priority to all other claims.
6. That no suit, action or other proceedings may be instituted against OG SPC in relation to the Fund except with the leave of the Court pursuant to section 226(5) of the Act.
7. That any act required or authorised to be done by the Receiver may be done by any one of them.
8. That the Receiver be at liberty to apply for further directions and generally.

9. That the Petitioner's costs of this Petition be paid out of the segregated assets of the Fund.
10. That such other order may be made as the Court thinks fit.

Dated the 5th day of April 2022

A handwritten signature in blue ink that reads "Travers Thorp Alberga". The signature is written in a cursive, slightly stylized font.

**TRAVERS THORP ALBERGA**  
**Attorneys at law for the Petitioner**

This petition and the verifying affidavit of XU, Eryi are intended to be served on:

The Cayman Islands Monetary Authority

Obelisk Global Fund SPC