



**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 REAL ESTATE AND FINANCE FUND**

PETITION

To: The Grand Court of the Cayman Islands

THE HUMBLE PETITION of Worldwide Opportunities Fund SPC (in Official Liquidation), c/o Harneys Fiduciary (Cayman) Limited, PO Box 10240, 4th Floor, Harbour Place, 103 South Church Street, George Town, Cayman Islands (the "**Petitioner**" or "**Worldwide**") shows that:-

This Petition was presented by Ogier, Attorneys-at-Law for the Petitioner, whose address for service is:
89 Nexus Way, Camana Bay, Grand Cayman KY1-9009, Cayman Islands (GLL/PYG/426879.00001)

Background*REFF*

- 1 Real Estate and Finance Fund ("**REFF**") was a Cayman Islands open ended mutual investment fund incorporated in the Cayman Islands on 25 May 2012 with company number 269118.
- 2 The last registered address of REFF was Harneys Fiduciary (Cayman) Limited, PO Box 10240, 4th Floor, Harbour Place, 103 South Church Street, George Town, Cayman Islands.
- 3 At all material times until in or around November 2017 the sole director and owner of the sole management share in REFF was Giant Management Corporation Limited ("**Giant Management HK**"), a company incorporated in Hong Kong and a wholly owned indirect subsidiary of a Canadian company called First Asia Holdings Limited ("**First Asia Holdings**").
- 4 At all material times First Asia Holdings was controlled by Hong Kong based brothers Alan Cheuk-pak Sun ("**Alan Sun**") and Ricky Wai-kei Sun ("**Ricky Sun**"), along with Kimmy Lai-ching Luk ("**Kimmy Luk**").
- 5 From in or around November 2017 onwards, a company with the same name as Giant Management HK but incorporated in the Republic of Seychelles ("**Giant Management Seychelles**") was the sole director and owner of the sole management share in REFF. The last known address for Giant Management Seychelles is Second Floor, Capital City, Independence Avenue, P.O. Box 1008, Victoria, Mahe, Republic of Seychelles.
- 6 Giant Management Seychelles is a wholly owned subsidiary of First Asia Holdings.

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- 7 At all material times until REFF's dissolution:
- (a) the signatory to REFF's Hong Kong bank account was Alan Sun; and/or
 - (b) Alan Sun, Ricky Sun and/or Kimmy Luk were shadow directors of REFF.
- 8 On 1 November 2018, Giant Management Seychelles placed REFF into voluntary liquidation by a written resolution.
- 9 Giant Management Seychelles was also appointed as voluntary liquidator of REFF.
- 10 REFF was dissolved on 27 May 2019.

Worldwide

- 11 Worldwide is a segregated portfolio company incorporated in the Cayman Islands on 23 February 2015 with registration number 296917.
- 12 At all material times until August 2016, Worldwide's directors were Ricky Sun and Clara Kwok.
- 13 At all material times from August 2016 until a winding up order was made against Worldwide on 16 May 2019:
- (a) Worldwide's directors were associates of Alan Sun, Ricky Sun and/or Kimmy Luk;
 - (b) the signatory to Worldwide's Hong Kong bank accounts was Ricky Sun; and
 - (c) Alan Sun, Ricky Sun and/or Kimmy Luk were shadow directors of Worldwide.
- 14 At all material times since in or around May 2016:

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- (a) Worldwide has held a segregated portfolio called Hong Kong Investment Fund SP ("**HKIF(2)**"); and
 - (b) the majority participating shareholder in HKIF(2) has been a large insurance company, AXA China Region Insurance Company (Bermuda) Limited ("**AXA**").
- 15 AXA's investment in Worldwide was for the purpose of investing in the stable and well-established real estate market of Hong Kong and the provision of finance through onward lending by (a) HKIF(2) purchasing shares in REFF which was itself the holder of certain shares in subsidiaries holding real estate in Hong Kong and from which REFF received income by way of rental revenue, and (b) REFF being a party to a loan agreement with money lenders, whereby its assets were lent to lenders for onward lending to borrowers in Hong Kong in return for receiving revenue from loan interest (the "**Investment Objective**").
- 16 In addition to Giant Management Seychelles holding the sole management share in REFF, at the time REFF was dissolved:
- (a) HKIF(2) held approximately 88.10% of the shares in REFF; and
 - (b) unknown shareholder(s) held approximately 11.9% of the shares in REFF.
- 17 Between in or around May 2016 and December 2018, the NAV per participating share in HKIF(2) reduced by more than 93% and unauthorised changes were made to the Investment Objective.
- 18 During 2018, AXA and/or its administrative agent and/or its Hong Kong solicitors sought explanations *inter alia* as to why HKIF(2)'s NAV had drastically reduced and/or unauthorised changes were made to the Investment Objective, but received no satisfactory response from Worldwide.

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- 19 On 25 February 2019, Worldwide issued a notice to AXA informing AXA that, following an internal review, Worldwide had determined that it was no longer economically viable to manage and operate HKIF(2) and that it would therefore be terminated.
- 20 On 28 February 2019, AXA presented a winding up petition in the Grand Court of the Cayman Islands against Worldwide pursuant to section 92(e) of the Companies Act on the ground that *inter alia* the affairs of Worldwide were not being conducted in accordance with the PPM and/or its articles of association and had lost its substratum, and it was therefore just and equitable that a winding up order be made.
- 21 On 16 May 2019 a winding-up order was made in respect of Worldwide and Mr Andrew Morrison and Mr David Griffin (both of FTI Consulting (Cayman) Limited), and Mr John Batchelor (now of FTI Consulting (Australia) Pty Ltd) were appointed as joint official liquidators of Worldwide (the "**Petitioner JOLs**").
- 22 Since their appointment Worldwide JOLs have investigated the financial affairs of Worldwide's corporate group, including but not limited to HKIF(2) and REFF.

Misappropriation of assets from REFF

- 23 Between 2016 and September 2018 it is averred that Alan Sun, Ricky Sun and/or Kimmy Luk and/or their associates (together the "**Syndicate**") carried out the unauthorised transactions set out below, whereby REFF's assets were stripped for their own personal benefit and/or the benefit of others, which accounts for the dramatic reduction in HKIF(2)'s NAV:
- (a) Diverting funds invested by participating shareholders in accordance with the Investment Objective for the Syndicate's personal use;

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- (b) Procuring REFF, to the best of Worldwide's knowledge in or around August 2016, to purchase shares in First Asia Holdings at an overvalue;
- (c) On or about 12 May 2017, causing or permitting REFF's wholly-owned indirect subsidiary 11 Hau Fook Street Limited to give a charge over a property it then held ("**Hau Fook Street Properties**") and to assign rental income from the Hau Fook Street Properties in favour of a bank thereby enabling a Hong Kong insurance broker, Asia One Asset Management Limited ("**Asia One**"), which is not part of REFF and/or Worldwide's corporate group but was at all material times controlled by the Syndicate, to secure banking facilities;
- (d) On or about 13 September 2017, causing or permitting REFF's wholly-owned indirect subsidiary then known as First Asia Tower Limited to give a charge over a significant commercial property it then held in Tsuen Wan, Hong Kong ("**First Asia Tower**") and assign rental income from First Asia Tower in favour of a bank, in order that Asia One could secure banking facilities and an advance of HK\$185 million to Asia One, of which HK\$183 million was advanced to Kimmy Luk's personal account on or about 14 September 2017;
- (e) On or about 22 February 2018, causing or permitting REFF's wholly-owned direct subsidiary Vagas Lane Limited ("**Vagas Lane**") to sell its 100% interest in 11 Hau Fook Street Limited (which in turn owned Hau Fook Street Properties) to a Seychelles company called Giant Connection Limited ("**Giant Connection**"), which is not part of REFF's corporate group, in return receiving insufficient consideration in the form of shares in SGOCO Group Limited ("**SGOCO**"), a Cayman incorporated company listed on the NASDAQ which wholly owns Giant Connection;

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- (f) On or about 11 May 2018, causing or permitting the sale of REFF's wholly-owned direct subsidiary Paris Sky Limited (which indirectly held First Asia Tower) at undervalue for HK\$205 million to Ricky Sun's wife, Iris Leung, who paid part of the consideration using funds from Worldwide and/or its subsidiaries and sold Paris Sky Limited to Giant Connection ten days later for HK\$368.4 million. Further, also on or about 11 May 2018, REFF was procured to enter into an escrow agreement with Iris Leung and WK Sun Solicitors (the Hong Kong law firm owned by Ricky Sun) to facilitate this transaction;
- (g) On or about 6 July 2018, causing or permitting REFF to purchase from Lin So Chun ("**Ms Lin**"), Alan Sun's mother-in-law, part of a convertible note issued by SGOCO (the "**SGOCO Note**") with a face value equal to US\$2,411,202 (approximately HK\$18.8 million), for the inflated consideration (comprising cash and shares) of HK\$250,765,008 (approximately US\$26.4 million). Part of that consideration was paid by transferring the HK\$205 million received for the sale of Paris Sky Limited to Ms Lin, who subsequently transferred the sum to Alan Sun and Kimmy Luk. The remainder of the consideration was satisfied by transferring REFF's 6,410,257 shares in First Asia Holdings to Ms. Lin at a mutually agreed value of HK\$45,765,008 (notwithstanding that at the time the carrying value in REFF's management accounts was HK\$271,500,024.98). On 11 October 2018, REFF was procured to issue written board resolutions to the false effect that the inflated consideration paid for the SGOCO Note was justified, despite a valuation report ascribing a fair value of only US\$1,720,000 to the SGOCO Note for which REFF paid US\$26.4 million; and/or
- (h) In or around September 2018, Iris Leung, Ricky Sun, Kimmy Luk and Alan Sun transferred approximately HK\$364 million to the account of a subsidiary

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of SGOCO, which represented funds misappropriated from REFF, for the purpose of exercising subscription rights for SGOCO shares in a rights offering which in turn resulted in a significant dilution of REFF's interest in SGOCO (which already represented inadequate consideration for the sale of Vagas Lane and paragraph 23(e) above is repeated). Subsequent to the closing of the rights offering, and to the best of Worldwide's knowledge, the aforementioned funds were applied by the Syndicate for the Syndicate's own purposes through transfers made by the SGOCO subsidiary to among others Alan Sun and Ricky Sun's law firm W K Sun Solicitors.

- 24 In early December 2020, the Hong Kong Police executed search warrants and arrested 24 persons in respect of the fraudulent misappropriation of REFF's assets set out above, including *inter alia* Alan Sun, Ricky Sun, Kimmy Luk, Clara Kwok, and Iris Leung.

Causes of action

- 25 In light of the foregoing, Worldwide and/or REFF has potential causes of action in Hong Kong against *inter alia* Alan Sun, Ricky Sun, Kimmy Luk, First Asia Holdings Limited, SGOCO, Giant Connection, and/or Iris Leung for (a) breach of fiduciary duty as director and/or trustee of REFF's assets (b) unlawful means conspiracy by the Syndicate to defraud REFF by misappropriating its assets; (c) knowing and dishonest assistance in the breach of fiduciary duties as director and/or trustee of REFF's assets; (d) knowing receipt of assets misappropriated from REFF; and/or (e) failure to exercise reasonable care, skill and diligence as director of REFF when issuing instructions or directions to REFF.

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Fraud in the voluntary liquidation

- 26 Pursuant to section 124(1) of the Companies Act a voluntary liquidation shall continue under the supervision of the Court unless, within twenty-eight days of the commencement of the liquidation, the directors have signed a declaration of solvency.
- 27 Pursuant to section 124(2) of the Companies Act a declaration of solvency means a declaration to the effect that a full enquiry into a company's affairs has been made and, to the best of the directors' knowledge and belief, a company will be able to pay its debts in full together with the prescribed rate of interest within twelve months of the commencement of the winding up.
- 28 It is averred that no director, taking into account the matters set out above, could have had reasonable grounds for the opinion that a full enquiry into REFF's affairs had been made and/or that REFF's assets were properly realised for distribution to creditors and/or shareholders.
- 29 It is further averred that the voluntary liquidation was procured by the Syndicate for the purpose of concealing the misappropriation of REFF's assets set out above in circumstances where:
- (a) Giant Management Seychelles is controlled by Alan Sun, Ricky Sun and Kimmy Luk and paragraph 6 above is repeated;
 - (b) The authorised signatory of Giant Management Seychelles who signed the special resolution placing REFF into voluntary liquidation is an individual called Lidyawati Sudjono ("**Ms Sudjono**") who is connected with the Syndicate in that Ms Sudjuno:

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- (i) signed the advertisement notice sent to the Cayman Islands Gazette which lists Ricky Sun as the contact point for enquiries in relation to the voluntary liquidation of REFF;
- (ii) signed the purchase agreement dated 11 May 2018 on behalf of REFF to sell its wholly owned subsidiary Paris Sky Limited at an undervalue to Ricky Sun's wife Iris Leung and paragraph 23(f) above is repeated;
- (iii) signed the escrow agreement on behalf of REFF and paragraph 23(f) above is repeated;
- (iv) signed the written resolution purporting to ratify the overpayment by REFF for the SGOCO Note and paragraph 23(g) above is repeated; and/or
- (v) ignored the expressed concerns of AXA and paragraph 18 above is repeated.

30 By reason of the foregoing:

- (a) the voluntary liquidation of REFF has been perpetuated by fraud;
- (b) although REFF appears to have been solvent when it entered voluntary liquidation, upon restoration Giant Management Seychelles could not continue in the position of voluntary liquidator; and
- (c) the liquidation of REFF under the supervision of this Honourable Court will facilitate a more effective, economic or expeditious liquidation of REFF in the interests of contributories and creditors in circumstances where the powers

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of an official liquidator will be required for recovery of the assets misappropriated from REFF.

31 It is therefore averred that REFF should be restored to the Register of Companies and wound up under the supervision of this Honourable Court.

The Petitioner therefore prays:-

- 1 The deemed dissolution of REFF be declared void.
- 2 REFF be restored to the Register of Companies.
- 3 The liquidation of REFF continues under the supervision of the Court.
- 4 REFF be deemed to have continued in existence as if they had not been struck off.
- 5 The property vested in the Minister for Financial Services and Commerce be restored to REFF upon REFF's restoration to the Register of Companies.
- 6 Mr Andrew Morrison and Mr David Griffin of FTI Consulting (Cayman) Limited, Suite 3212, 53 Market Street, Camana Bay, PO Box 30613, Grand Cayman, KY1-1203, Cayman Islands and Mr John Batchelor of FTI Consulting (Australia) Pty Ltd of Level 21, Bourke Place, 600 Bourke Street, Melbourne, VIC 3000, Australia be appointed as joint official liquidators of REFF (the "JOLs").
- 7 The JOLs have the power to act jointly and severally.
- 8 The JOLs shall not be required to give security for their appointment.
- 9 The JOLs be authorised to take any such action as may be necessary or desirable to obtain recognition of the JOLs and/or their appointment in any other relevant

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jurisdiction and to make application to the courts of such jurisdictions for that purpose.

- 10 The JOLs be authorised to execute all of the powers set out in section 110(2)(b) of the Companies Act and Part II of the Third Schedule thereof, without further sanction of this Honourable Court.
- 11 The JOLs be authorised to execute all of the powers set out in section 110(2)(a) of the Companies Act and Part I of the Third Schedule thereof, provided sanction of this Honourable Court is obtained, subject to the following powers which may be exercised without further sanction of the Court:
 - (a) The JOLs be authorised to cause REFF to enter into a deed of adherence to the deed of funding agreement with Thomson Road Limited (the "**Funding Agreement**") which this Honourable Court granted sanction for in respect of Worldwide on 11 April 2022 and to do all such things and take such actions as may be contemplated by, and give effect to the terms of, the Funding Agreement;
 - (b) The JOLs be authorised to commence proceedings in the name and on behalf of REFF as outlined in paragraphs 99 to 104 of the First Affidavit of John Howard Batchelor;
 - (c) The JOLs be at liberty to appoint such counsel, attorneys, professional advisors, whether in the Cayman Islands, Hong Kong or elsewhere, including Ogier and Minter Ellison, 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 and to remunerate them for the same;

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- (d) The JOLs be authorised to take any such action as may be necessary or desirable to obtain recognition of the Official Liquidation and/or their appointment in any other relevant jurisdiction including without limitation Hong Kong SAR, and to make applications to the courts for such purpose.
- 12 No suit, action or other proceeding shall be proceeded with or commenced against REFF except with the leave of the Court and subject to such terms as the Court may impose.
- 13 No disposition of property by REFF by or with the authority of the JOLs 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 Companies Act.
- 14 The remuneration and expenses of the JOLs shall be paid out of the assets of REFF in accordance with Part III of the Insolvency Practitioners' Regulations 2018 and Order 20 of the CWR.
- 15 The JOLs be at liberty to meet all disbursements reasonably incurred in connection with the performance of their duties and, for the avoidance of doubt, all such payments shall be made as and when they fall due out of the assets of REFF as an expense of the liquidation.
- 16 The JOLs be at liberty to apply generally to the Court to make such orders for regulating the future conduct of the affairs of REFF as the Court shall see fit.
- 17 The costs of and incidental to the Petition be paid forthwith out of the assets of REFF as an expense of the liquidation.

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18 Such further or other relief be granted as the Court deems appropriate.

AND your Petitioner will ever pray etc.

Dated this 2nd day of June 2022



Ogier

NOTE: This petition is intended to be served on:

- (1) Registrar of Companies, of G/F, Government Administration Building, 133 Elgin Avenue, Box 123, Grand Cayman, KY1-9000, Cayman Islands.
- (2) Minister for Financial Services and Commerce, of Suite 126, Government Administration Building, 133 Elgin Avenue, Grand Cayman, KY1-9000, Cayman Islands.
- (3) Giant Management Corporation Limited, of Second Floor, Capital City, Independence Avenue, P.O. Box 1008, Victoria, Mahe, Republic of Seychelles.
- (4) Real Estate and Finance Fund (dissolved), at its last known registered address, Harneys Fiduciary (Cayman) Limited, PO Box 10240, 4th Floor, Harbour Place, 103 South Church Street, George Town, Cayman Islands.

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NOTICE OF HEARING

TAKE NOTICE THAT the hearing of this petition will take place at the Law Courts, George Town, Grand Cayman, on *4 July 2022* at ~~10.00am.~~ *2:30 p.m.*

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, KYI-1106, telephone 345 949 4296.

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