



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 MAGELLAN ASSET FINANCE LIMITED

WINDING UP PETITION

To the Grand Court

The humble petition of Therium Litigation Finance Atlas P LLC (the "**Petitioner**") of 200 Bellevue Parkway, Suite 201, New Castle, Wilmington, Delaware 19809, United States shows that: -

The Company

1. Magellan Asset Finance Limited (the "**Company**") is a Cayman Islands exempted company with limited liability incorporated on 17 November 2016 under its original name of Magellan Investments Limited and with company number 317276.
2. The Company changed its name by a special resolution dated 3 May 2019 to Magellan Asset Finance Limited.
3. The registered office of the Company is at Alter Domus Cayman Limited, Fifth Floor, Harbour Place, 103 South Church Street, George Town, Grand Cayman, Cayman Islands.

FILED by Maples and Calder (Cayman) LLP, attorneys for the Petitioner, whose address for service is PO Box 309, Uglan House, Grand Cayman, KY1-1104, Cayman Islands. (Ref: LRS/JRN/804197-000002/69710530)

4. The objects for which the Company was established are unrestricted.
5. The share capital of the Company is US\$500,000 divided into 500,000 ordinary shares of par value of US\$1.00 each.
6. The business of the Company was to fund litigation which it carried out in the United Kingdom.

The Facilities Agreement

7. The Company entered into a facilities agreement dated 22 August 2019 between the Company as borrower and Therium Litigation Finance Atlas AP LLC as lender (the "**Facilities Agreement**").
8. By a transfer certificate dated 23 September 2019, Therium Litigation Finance Atlas AP LLC novated all its rights and obligations as lender under the Facilities Agreement to the Petitioner.
9. The following loans (the "**Loans**") were advanced to the Company:
 - 9.1. US\$6,119,403.46 advanced on 11 September 2019;
 - 9.2. US\$1,858,029.22 advanced on 7 October 2019; and
 - 9.3. US\$12,064.14 advanced on 7 October 2019.
10. The aggregate principal amount of the Loans advanced to the Company pursuant to the Facilities Agreement, together with all accrued interest thereon, the budget commitment and the arrangement fee, is US\$8,510,932.13 as of 14 June 2022.
11. The purpose of the Loans was to fund out-of-pocket costs and other expenses incurred or expected to be incurred by the Company in relation to certain litigation cases that were eligible for funding under the Facilities Agreement ("**Eligible Cases**"). In particular, the Loans were to be applied to fund costs and expenses incurred by the Company in relation to a claim brought by Tatiana Golovina and MB & Services Limited against United Company Rusal plc (the "**Rusal Case**").

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Breaches of the Facilities Agreement

12. The Petitioner became aware that the Company had ceased to progress the Rusal Case and, by a letter dated 12 July 2021, gave notice that the Company was in breach of the following provisions of the Facilities Agreement:
- 12.1. the Company's obligation pursuant to clause 18.30(b) (*Disposition of Eligible Cases*) and clause 18.35(a) (*Portfolio Cases*) of the Facilities Agreement to conduct Eligible Cases to conclusion; and
 - 12.2. the Company's obligation pursuant to clause 18.31 (*Conduct*) of the Facilities Agreement to conduct its business, and litigation and the claims process with respect to each Eligible Case, with due care and to a professional standard and to use all reasonable endeavours to recover any net proceeds from the Eligible Case owing to the Borrower,
- (together the "**Breaches**")
13. By a letter dated 29 September 2021, the Petitioner gave notice to the Company that:
- 13.1. the 10 business day grace period that the Facilities Agreement allows for remediation of the Breaches had lapsed without the Breaches being remedied; and
 - 13.2. the Petitioner was entitled to accelerate payment of amounts owed under the Facilities Agreement.
14. By a letter dated 29 April 2022, the Petitioner demanded that the Company repay US\$8,448,528.86 (the "**Demanded Sum**"), being the aggregate of US\$8,141,434.32 which amount is comprised of the principal amount of the Loans and US\$307,094.54 in respect of unpaid interest accrued on the Loans up to 21 April 2022. No payment was made by the Company within the one day period for the payment specified in that letter, or at all.

Grounds for Petition

15. The Petitioner seeks the making of a winding up order against the Company on the ground set out in section 92(d) of the Companies Act (2022 revision) ("**Companies Act**") that the Company is unable to pay its debts. This is on the basis that:
- 15.1. the Company was required to pay the Demanded Sum on demand as a result of events of default occurring under the Facilities Agreement;
 - 15.2. the Company failed to pay the Demanded Sum on demand or at all; and
 - 15.3. as the Company discontinued progressing the Rusal Case, which was the only litigation case that the Company funded, the Company has no assets which it could reasonably expect to use to satisfy the Demanded Sum or any reasonable prospects that it will satisfy the Demanded Sum.

Nomination of Joint Official Liquidators

16. The Petitioner nominates Owen Walker of R&H Restructuring (Cayman) Ltd, 2nd Floor, Windward 1, Regatta Office Park, PO Box 897, Grand Cayman KY1-1103, Cayman Islands and Paul Allen and David Shambrook both of FRP Advisory Trading Limited, 110 Cannon St, London EC4N 6EU, the United Kingdom be appointed as joint official liquidators of the Company.

YOUR PETITIONER THEREFORE HUMBL Y PRAYS THAT:

- 1. The Company be wound up by the Court pursuant to section 92(d) of the Companies Act.
- 2. Owen Walker of R&H Restructuring (Cayman) Ltd, 2nd Floor, Windward 1, Regatta Office Park, PO Box 897, Grand Cayman KY1-1103, Cayman Islands and Paul Allen and David Shambrook both of FRP Advisory Trading Limited, 110 Cannon St, London EC4N 6EU, the United Kingdom be appointed as joint official liquidators of the Company (the "**Joint Official Liquidators**").

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3. The Joint Official Liquidators shall not be required to give security for their appointment.
4. The Joint Official Liquidators are hereby authorised to take any such action as may be necessary or desirable to obtain recognition of the Joint Official Liquidators and/or their appointment in any other relevant jurisdiction and to make applications to the courts of such jurisdictions for that purpose.
5. The Joint Official Liquidators have the power to act jointly and severally in their capacity as liquidators of the Company.
6. The Joint Official Liquidators shall have the power to engage staff (whether or not as employees of the company) to assist that person in the performance of that person's functions.
7. The Joint Official Liquidators be at liberty to appoint attorneys, counsel and professional advisors, whether in the Cayman Islands or elsewhere, as they may consider necessary to advise and assist them in the performance of their duties in accordance with the Companies Winding Up Rules, O. 25.
8. The Joint Official Liquidators be at liberty to apply generally.
9. No disposition of the Company's property by or with the authority of the Joint Official Liquidators in carrying out their duties and functions and exercise of their power under this Order shall be voided by virtue of section 99 of the Companies Act.
10. The costs of the Petitioner arising out of and incidental to the Petition 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 Joint Official Liquidators.

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

AND your Petitioner will ever pray etc.

DATED this 21st day of June 2022

Maples and Calder (Cayman) LLP

Maples and Calder (Cayman) LLP
Attorneys-at-Law for the Petitioner

FILED by Maples and Calder (Cayman) LLP, attorneys for the Petitioner, whose address for service is PO Box 309, Uglund House, Grand Cayman, KY1-1104, Cayman Islands. (Ref: LRS/JRN/804197-000002/69710530)

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NOTE: This petition is intended to be served on Magellan Asset Finance Limited at its registered office at Alter Domus Cayman Limited, Fifth Floor, Harbour Place, 103 South Church Street, George Town, Grand Cayman, Cayman Islands.

This Petition was presented on behalf of Therium Litigation Finance Atlas P LLC by its attorneys-at-law, Maples and Calder (Cayman) LLP, whose address for service is PO Box 309, Uglan House, Grand Cayman, KY1-1104, Cayman Islands.

NOTICE OF HEARING

TAKE NOTICE THAT the hearing of this petition will take place at the Law Courts, George Town, Grand Cayman on *22 July 2022* at *10 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, KY1-1106, telephone 345 949 4296.

FILED by Maples and Calder (Cayman) LLP, attorneys for the Petitioner, whose address for service is PO Box 309, Uglan House, Grand Cayman, KY1-1104, Cayman Islands. (Ref: LRS/JRN/804197-000002/69710530)

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