



IN THE GRAND COURT OF THE CAYMAN ISLANDS

FINANCIAL SERVICES DIVISION

CAUSE NO: FSD OF 2023

IN THE MATTER OF THE COMPANIES ACT (2022 REVISION)

**AND IN THE MATTER OF INCOME COLLECTING 1-3 MONTHS T-BILLS
MUTUAL FUND (IN OFFICIAL LIQUIDATION)**

PETITION

TO: THE GRAND COURT

THE HUMBLE PETITION OF:

- (1) **Keiran Hutchison and Igal Wizman** as Joint Official Liquidators of Income Collecting 1-3 Months T-Bills Mutual Fund (In Official Liquidation).

PETITIONERS

-and-

- (1) **Global EMEA Holdings LLC** c/o Institutional Secured Credit LLC of 5550 Painted Mirage Road STE 320, Las Vegas, NV, 89149

RESPONDENT

SHOWS THAT:**The Parties**

1. The Petitioners are, and were at all material times, the Joint Official Liquidators of Income Collecting 1-3 Months T-Bills Mutual Fund (In Official Liquidation) (the “**Company**” or “**Fund**”). The Plaintiffs were appointed JOLs of the Company by Order of the Grand Court of the Cayman Islands dated 13 October 2021 (“**Supervision Order**”). The Company is an exempted limited liability company incorporated in the Cayman Islands on 6 February 2017 for the purpose of operating a mutual fund.
2. The Respondent is, and was at all material times, a limited liability company domiciled in and established under the laws of the State of Nevada in the United States of America and its current registered office is situated at c/o Institutional Secured Credit LLC of 5550 Painted Mirage Road STE 320, Las Vegas, NV, 89149. The Respondent was formed and controlled by Mr. Ofer Abarbanel (“**Abarbanel**”).

Background

3. The Fund had multiple share classes which were registered on the NASDAQ headquartered in New York City, State of New York in the United States of America (“**USA**”). One share class was called “**GOVBX**”.
4. At all material times, the Company’s principals and investment managers were Abarbanel and Mr. Victor Chilelli (“**Chilelli**”).
5. The Respondent holds approximately US\$1,399,175.00 million in cash funds held in bank a bank account at Capital Security Bank Limited (“**CSB Account**”) located in the Cook Islands (“**CSB Account Monies**”).
6. Between 6 March 2019 and 11 March 2021, a group of investors (“**Investor Group A**”) entered into a number of transactions involving the sale and purchase of shares in the Fund (share class GOVBX). On 21 May 2021, Investor Group A submitted a redemption request in respect of all of its shares in the fund, with a total value of approximately US\$110,000,000.00. This redemption request was not met by the Fund.

7. On 21 June 2021, the US Securities and Exchange Commission issued a Complaint (“**SEC Complaint**”) against Abarbanel and Chilelli and the Fund and several other “Relief Defendants” including the First Defendant, who received investor funds as a result of an alleged fraudulent scheme. The SEC Complaint alleges, inter alia, that Abarbanel and Chilelli formed, controlled and/or operated at least four LLCs, which they used to receive, hold, transfer and misappropriate assets in furtherance of the scheme, including Institutional Secured Credit LLC (“**ISC**”) and the Respondent.
8. ISC is a Nevada limited liability company formed, managed, controlled and operated by Abarbanel.
9. On 24 June 2021, the United States federal criminal law enforcement in the United States Attorney’s Office for the Southern District of New York arrested Abarbanel on charges of wire fraud and securities fraud, on similar facts to the SEC Complaint. On 9 September 2022, Abarbanel entered a guilty plea to one count on a Superseding Information of Investment Advisor Fraud involving, inter alia, that from at least 2018 through to June 2021, Abarbanel:

“while acting as an investment advisor... [used the mails and other means to] ... (a) employ devices, schemes and artifice to defraud clients and prospective clients; (b) engage in transactions, practices and course of business which operated as a fraud and deceit upon clients and prospective clients; and (c) engage in acts practices and courses of business which was fraudulent, deceptive and manipulative, to wit, Abarbanel, in violation of this fiduciary duties, engaged in a scheme to defraud investors and prospective investors in the Fund by making false and misleading statements to them regarding the Fund’s investments”.

The First Transfer & Traceable Funds

10. The offering document (“**Prospectus**”), which was published on the Fund’s website, represented that the Fund would invest primarily in US Treasuries with a maturity of 1-3 months. It also represented that the Fund might enter into securities lending and/or reverse repurchase transactions that provide the Fund with interest at either a fixed or floating rate. The counterparties to such transactions were, according to the Prospectus, to be entities such as broker/dealers, institutional investors, institutional investment managers, banks, mutual funds and insurance funds. The Prospectus further represented that such transactions would be secured by collateral.

11. Rather than investing Fund assets according to the terms of the Prospectus, Abarbanel and Chilelli instead routed funds through sham loans to six companies to conduct trading, for their own benefit, not authorised by the Prospectus given to Investors Group A, with no proper collateral, and in breach of their fiduciary duties to the Fund.
12. Between, 23 July 2018 and 15 January 2019, the principals of the Company caused the sum of US\$18,366,476 to be transferred (the “**First Transfer**”) from the Company’s account with Wells Fargo (the “**Company’s Account**”), which ultimately ended up in an account held by ISC at Interactive Brokers (the “**ISC IB Account**”). These First Transfers are an example of the transactions which were instructed by the Company in order to remove money from the Company’s operating account and ultimately into the accounts of the Respondent.
13. A portion of the First Transfer, in the sum of US\$999,075 (“**Traceable Funds**”), deriving from the First Transfer, was transferred via a series of transactions in various bank accounts, from the ISC IB Account to the CSB Account and this part of the CSB Account Monies can be traced directly from the Company’s Account. The relevant flow of monies is set out on the spreadsheet attached hereto at Appendix A.
14. The First Transfer was a disposition made by or on behalf of the Company:
 - a) at an undervalue in that it was with no consideration and/or such consideration as was given was (far) less than the value of the transfer; and
 - b) with intent to defraud its creditors for, inter alia, the following reasons:
 - i. the Respondents had no authority or valid reason to transfer away monies from the Company’s Account and/or to transfer Company monies into ISC (a company controlled by Abarbanel);
 - ii. the First Transfer is not in furtherance to an investment envisaged or permissible in accordance with the terms of the Prospectus;
 - iii. the First Transfer was carried out at the instruction of Abarbanel who has pleaded guilty to Investment Advisor Fraud due to his involvement with the Fund; and
 - iv. the transferee knew that it had no right to the funds and was giving no consideration.

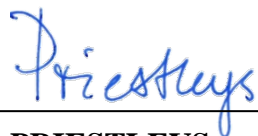
15. It is clear that the First Transfer was business of the Company carried on with intent to defraud creditors of the Company and/or for a fraudulent purpose, for, inter alia, the following reasons:
- i. the Respondents had no authority or valid reason to transfer away monies from the Company's Account and/or to transfer Company monies into ISC (a company controlled by Abarbanel);
 - ii. the First Transfer is not in furtherance to an investment envisaged or permissible in accordance with the terms of the Prospectus;
 - iii. the First Transfer was a disposition made with no consideration and/or such consideration as was given was (far) less than the value of the transfer, and with intent to defraud its creditors;
 - iv. the First Transfer was carried out at the instruction of Abarbanel who has pleaded guilty to Investment Advisor Fraud due to his involvement with the Fund; and
 - v. the transferee knew that it had no right to the funds and was giving no consideration.

AND YOUR PETITIONERS will ever pray:-

This Honourable Court shall grant:

- (1) A declaration that the First Transfer is void as against the Plaintiffs as Joint Official Liquidators of the Fund pursuant to section 146 of the Companies Law (2022 Revision);
- (2) Further and in the alternative, a declaration that the First Transfer was carried on with the intent to defraud creditors of the Company and/or for a fraudulent purpose pursuant to section 147 of the Companies Law (2022 Revision);
- (3) Further and in the alternative, a declaration that the Respondent was at all material times a constructive trustee for the Plaintiffs in respect of the Traceable Funds;
- (4) Restitution of the Traceable Funds;
- (5) An Order that the Respondent does transfer the Traceable Funds to the Joint Official Liquidators of the Fund.
- (6) Interest;
- (7) Costs; and
- (8) Further or other relief.

DATED THIS 17th day of January 2023



PRIESTLEYS

FOR AND ON BEHALF OF THE PETITIONERS

NOTE: This Petition is intended to be served on the Respondent.

This **PETITION** is filed by Priestleys, Attorneys at Law for the Defendant whose address for service is Second Floor, Caribbean Plaza, 878 West Bay Road, PO Box 30310, Grand Cayman, KY1-1202, Cayman Islands.

NOTICE OF HEARING

Take Notice that the hearing of this Petition will take place at the Law Court, George Town, Grand Cayman on the day of 2023.

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, KY1-11-6, telephone 345 949 4296.

This **PETITION** is filed by Priestleys, Attorneys at Law for the Defendant whose address for service is Second Floor, Caribbean Plaza, 878 West Bay Road, PO Box 30310, Grand Cayman, KY1-1202, Cayman Islands.