



THE GRAND COURT OF THE CAYMAN ISLANDS  
FINANCIAL SERVICES DIVISION

(MRHCJ)

FSD NO. 258 OF 2023 ( )

IN THE MATTER OF SECTION 131 OF THE COMPANIES ACT (2023 REVISION)

AND IN THE MATTER OF PIONEER MERGER CORP.  
(IN VOLUNTARY LIQUIDATION)

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PETITION FOR COURT SUPERVISION  
OF A VOLUNTARY LIQUIDATION

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**TO: The Grand Court of the Cayman Islands**

The Humble Petition of Alexander Lawson and Christopher Kennedy of Alvarez & Marsal Cayman Islands Limited (**A&M**), 2nd Floor, Flagship Building, 142 Seafarers Way, P.O. Box 2507, George Town, Grand Cayman, KY1-1104 as joint voluntary liquidators (the **JVLs**) of Pioneer Merger Corp. (in Voluntary Liquidation) (the **Company**), shows that:

1. The Company is an exempted company with limited liability incorporated on 21 October 2020 and organised pursuant to the Companies Act (2023 Revision) (the **Act**). The registration number of the Company is 367259.
2. The JVLs have made the relevant filings for the registered office of the Company to be updated to the registered office of A&M at 2nd Floor, Flagship Building, 142 Seafarers Way, P.O. Box 2507, George Town, Grand Cayman, KY1-1104.
3. The Amended and Restated Memorandum and Articles of Association dated 7 January 2021 (the **Articles**) of the Company states that the objects for which the Company was established are unrestricted.

4. The Company was set up as a Special Purpose Acquisition Vehicle (also known as a **SPAC**) for the purposes of completing a merger or business combination within 24 months of the Company's IPO (i.e. 12 January 2021).
5. The Company, and its sponsor, Pioneer Merger Sponsor LLC, a Cayman Islands limited liability company (the **Sponsor**) were formed by Jonathan Christodoro, Rick Gerson, Navroz Udawadia and Ryan Khoury.
6. The Company's capital structure comprises two classes of shares:
  - (a) Class A ordinary shares (the **Class A Shares**), which were issued through in the Company's IPO to public shareholders (the **Class A Shareholders**); and
  - (b) Class B ordinary shares (the **Class B Shares**) which are held as follows –
    - i. 9,942,500 by the Sponsor; and
    - ii. 40,000 each individually by Mr Oscar Salazar, Mr Todd Davis and Mr Mitchell Caplan.
7. The proceeds raised from the Class A Shareholders in the Company's IPO was held in trust in a separate account to the SPAC's general assets (the **Trust Account**) and was to be used by the Company to consummate an initial business combination within 24 months.
8. To provide the Company with sufficient working capital for its operating expenses, the Sponsor invested US\$10.1 million in exchange for 6.7 million warrants issued by the Company in a private placement.
9. On 27 May 2021, the Company announced that it had entered into a business combination agreement (the **BCA**) to acquire Acorns Grow Incorporated (**Acorns**), a wealth manager that offers a mobile application for saving and investing.
10. Notwithstanding the Company's efforts to consummate the BCA, the transaction eventually broke down over delays in the United States Securities and Exchange Commission (**SEC**) review process over Acorns' financial statements, and on 3 January 2022 the Company and Acorns entered into a mutual termination agreement (the **Termination Agreement**) whereby Acorns agreed that, if the transaction was not consummated prior to 14 January 2022, either party could terminate the BCA in exchange for the following payments from Acorns to the Company:

- (a) US\$17.5 million payable in monthly instalments through 15 December 2022; and
- (b) US\$15 million if the Company did not complete an alternative combination by 15 December 2022.

(together, the **Termination Fee**)

11. On 15 January 2022, Acorns terminated the BCA and proceeded to make payments of the Termination Fee to the Company.
12. On 18 January 2022, the Company filed a Form 8-K with the SEC informing the market and the Class A Shareholders of the termination of the BCA and the receipt of the Termination Fee, and advised that, if the Company does not complete an alternate business combination, it will redeem the Class A Shares at a per-share price equal to the aggregate amount in the Trust Account.
13. On 15 December 2022, at a meeting of the board of directors of the Company, it was determined that there was insufficient time remaining to consummate a business combination within the 24-month period stipulated in the Articles. Accordingly, the board of directors resolved that the Company would, *inter alia*:
  - (a) cease all operations except for the purpose of winding up;
  - (b) terminate its business as a SPAC;
  - (c) redeem all Class A Shares issued by the Company in the IPO from available funds in the Company's trust account;
  - (d) cancel the warrants issued by the Company in the IPO;
  - (e) de-register with the United States Securities and Exchange Commission; and
  - (f) commence its voluntary liquidation.
14. That same day, the Company announced to its shareholders that the Company would carry out the redemption of all Class A Shares effective as of 13 January 2023.
15. On 30 December 2022, Funicular Funds, LP (**Funicular**), the owner of approximately 6.3% of the outstanding Class A Shares, filed a class action complaint on behalf of the Class A Shareholders against the Sponsor, the Company, and the Company's directors (**US Defendants**) in the United States District

Court for the Southern District of New York (the **Southern District Court**) (Case 1:22-cv-10986). Funicular claims that the US Defendants have no legal or equitable entitlement to the Termination Fee or any other corporate assets of the Company, and the US Defendants' intended "misappropriation" violates their contractual and fiduciary duties.

16. On 10 January 2023, Funicular, by its counsel in the Cayman Islands, Campbells, put the Company on notice that it would be filing a petition for the winding up of the Company. On 12 January 2023, Funicular filed a petition for the winding up of the Company on the just and equitable grounds that the Company's substratum has failed and that there has been a loss of trust and confidence in the Company's management.
17. On 12 January 2023, at a meeting of directors, the Company's board made the decision not to distribute the Termination Fee to the Class B Shareholders pending the resolution of the ongoing dispute with respect to, inter alia, which shareholders (i.e. the Class A Shareholders or Class B shareholders) are entitled to the Termination Fee.
18. On 13 January 2023, the Company effected a redemption of all Class A Shares from the Company's trust account (which excludes the payment of the Termination Fee).
19. On 26 February 2023, the Company applied to this Honourable Court for an order validating the redemption of all Class A Shares pursuant to section 99 of the Act (the **Validation Application**). By the Validation Application, the Company also sought orders for validation of payment of administrative, professional and indemnification payments. The Validation Application was opposed by Funicular.
20. On 22 May 2023, Funicular and the Company consented to the dismissal of the Petition and the Validation Application, and that the hearing scheduled for 26 May 2023 be vacated.
21. Notwithstanding the consents reached in the Cayman proceeding, the US Defendants and the Company have continued to litigate this issue in the Southern District Court. Having been engaged in that process for almost eight (8) months with no meaningful progress towards achieving a resolution, the Company's board of directors decided that by bringing the Company under the supervision of this Honourable Court it may be possible to facilitate a more effective, economic and expeditious resolution to the dispute which will benefit the Company's contributories as a whole. Accordingly, on 11 August 2023, pursuant

to a resolution passed by the Class B Shareholders (i.e. the remaining unredeemed shareholders/the Sponsor), the Company was placed into voluntary liquidation, and Alexander Lawson and Chris Kennedy were appointed as JVLs.

22. On 11 August 2023, the directors of the Company (Jonathan Christodoro, Mitchell Caplan, Todd Davis and Oscar Salazar) signed a declaration of solvency (the **Declaration**) confirming their belief that the Company will be able pay its debts in full within a period of twelve (12) months from the commencement of the winding up.
23. On 17 August 2023, the JVLs filed a notice of winding up and consents to act as the JVLs of the Company with the Registrar of Companies in accordance with section 123(1)(a) and 123(1)(b) of the Act and Order 13, rules 2(a) and 2(b) of the Companies Winding Up Rules, 2018 (as amended) (the CWR). The voluntary winding-up of the Company and appointment of the JVLs thereby commenced on 17 August 2023.

#### **Application for supervision order**

24. Notwithstanding that the Declaration was signed by the directors of the Company, it is the JVLs' view that a supervision order will facilitate a more commercial and effective resolution to the dispute, and as a consequence thereof, an economic and expeditious liquidation.
25. The making of a supervision order will activate the statutory moratorium on proceedings being commenced against the Company, which will allow the JVLs to conduct a more effective, economic and expeditious resolution of the Termination Fee entitlement issue.
26. Further, if granted, a supervision order will give the JVLs the ability to seek aid and assistance from the Southern District Court to stay the litigation commenced by the Class A Shareholders, while the JVLs seek to resolve the issues surrounding the Termination Fee and seek the approval of this Honourable Court of any negotiated resolution, should one be reached.
27. Accordingly, the JVLs request orders of the Court pursuant to section 132(1)(a) of the Companies Act that Alexander Lawson and Christopher Kennedy of A&M be appointed as a Joint Official Liquidators (**JOLs**) with joint and several liability, for the purposes of the liquidation of the Company.
28. Alexander Lawson and Christopher Kennedy of A&M:

- (a) Are “qualified insolvency practitioners” as defined in section 89 of the Companies Act and as prescribed by Regulation 4 of the insolvency Practitioners’ Regulations 2008 (as amended) (the **Regulations**);
- (b) Meet the residency requirements contained in Regulation 5 of the Regulations;
- (c) Meet the independence requirements prescribed by Regulation 6 of the Regulations;
- (d) Meet the insurance requirements prescribed by Regulation 7 of the Regulations and A&M holds a trade licence which authorises its staff to carry on business as professional insolvency practitioners; and
- (e) Consent to their appointment as official liquidators of the Company, if so appointed by the Court.

**YOUR PETITIONERS THEREFORE HUMBLY PRAY THAT:-**

1. The winding up of the Company be continued under the supervision of the Court.
2. Alexander Lawson and Christopher Kennedy of A&M, 2nd Floor, Flagship Building, 142 Seafarers Way, P.O. Box 2507, George Town, Grand Cayman, KY1-1104 be appointed as joint official liquidators (the **JOLs**) of the Company.
3. The JOLs have the power to act jointly and severally.
4. The JOLs shall not be required to give security for their appointment.
5. The JOLs be authorised to do any acts or things considered by them to be necessary or desirable in connection with the liquidation of the Company and the winding up of its affairs in the Cayman Islands and/ or elsewhere.
6. The JOLs be authorised to take any such action as may be necessary or desirable to obtain recognition of their appointment in the United States and any other relevant jurisdiction without further sanction or intervention of the Court.
7. The JOLs be authorised to take any such action as may be necessary or desirable to obtain recognition

of the liquidation as a foreign proceeding in the United States and any other relevant jurisdiction without further sanction or intervention of the Court.

8. The JOLs be authorised pursuant to section 110(2)(a) of the Act to exercise the following powers specified in Part II of the Third Schedule to the Act, without the further sanction or intervention of the Court:
  - (a) to engage staff, agents and/or consultants (whether or not as employees of the Company) in the Cayman Islands and elsewhere to assist the JOLs in the performance of their functions;
  - (b) to pay any class of contributories in full; and
  - (c) to engage attorneys and other professionally qualified persons in the Cayman Islands and elsewhere to assist the JOLs in the performance of their functions.
9. The JOLs' remuneration and expenses be paid out of the assets of the Company in accordance with section 109 of the Act, Part III of the Regulations, and CWR Order 20.
10. No disposition of the Company's property by or with the authority of the JOLs in carrying out their duties and functions and the exercise of their powers shall be voided by virtue of section 99 of the Act.
11. The JOLs be at liberty to apply generally.
12. The costs of this Petition shall be paid out of the assets of the Company as an expense in the liquidation, such costs to be taxed if not agreed with the JOLs.
13. Such further or other orders be made as the Court shall deem fit.

**AND** your Petitioner will ever pray etc.

Dated the 28<sup>th</sup> day of August 2023



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**Harney Westwood & Riegels**

**THIS PETITION** was presented by Harney Westwood & Riegels, Attorneys-at-Law for the Petitioner, whose address for service is 3rd Floor, Harbour Place, 103 South Church Street, PO Box 10240, Grand Cayman KY1-1002, Cayman Islands (Ref:AZJ/RXZ/052366.0002)

**NOTICE OF HEARING**

**TAKE NOTICE THAT** the hearing of this Petition will take place at the Law Courts, George Town, Grand Cayman, Cayman Islands on 2 November 2023 at 9:00 am.

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, George Town, Grand Cayman KY1-1106, Cayman Islands; Tel: +1(345)949-4296.