

IN THE GRAND COURT OF THE CAYMAN ISLANDS



FINANCIAL SERVICES DIVISION

CAUSE NO. FSD

OF 2023 (NSJ)

IN THE MATTER OF THE COMPANIES ACT (2023 REVISION)

AND IN THE MATTER OF FRONTERA RESOURCES CORPORATION

WINDING UP PETITION

To the Grand Court of the Cayman Islands

The humble petition of Mourant Ozannes (Cayman) LLP (the **Petitioner**) of 94 Solaris Avenue, Camana Bay, Grand Cayman, KY1-1108, Cayman Islands.

Introduction

1. The Petitioner presents this petition for the winding up of Frontera Resources Corporation (the **Company**) and seeks the appointment of joint official liquidators over the Company.

2. The Petitioner is a creditor of the Company in the total sum of:
 - (a) US\$1,250,936.16 (the Settlement Sum, as defined below) and further interest from 1 January 2023 to date at a rate of 7.75%; or in the alternative
 - (b) US\$924,924.90 (the Judgment Debt, as defined below) and further interest from 12 February 2020 to date at a rate of 2 $\frac{3}{8}$ %.
3. The Petitioner seeks the winding up of the Company on the ground that the Company is unable to pay its debts, pursuant to section 92(d) of the Companies Act (2023 Revision) (the Companies Act).

The Company

4. The Company is an exempted company incorporated under the laws of the Cayman Islands on 17 May 2011, with company number 256380. The Company's registered office is at c/o Stuarts Corporate Services Limited, PO Box 2510, Kensington House, 69 Dr Roy's Drive, George Town, Grand Cayman, KY11-1104, Cayman Islands.

The Petitioner

5. The Petitioner is a limited liability partnership registered under the laws of the Cayman Islands on 1 February 2022, with registration number 601078. The Petitioner's registered office is at PO Box 1348, 94 Solaris Avenue, Camana Bay, Grand Cayman, KY1-1108, Cayman Islands.

Background

The engagement letter

6. Pursuant to an engagement letter dated 11 October 2018, the Petitioner was engaged by the Company as its legal counsel to represent it in a dispute brought before the Grand Court of the Cayman Islands (the **Engagement Letter**). The Engagement Letter incorporated the Petitioner's general terms of business effective at the date of the Engagement Letter (the **General Terms**).
7. Pursuant to clause 4(b) of the General Terms, the Company was required to settle the professional fees and disbursements of the Petitioner upon presentation of its invoices.
8. Further pursuant to clause 4(b) of the General Terms, the Petitioner provided the Company with legal services and accordingly issued invoices for its professional services rendered and disbursements incurred as set out below.

Invoice Date	Invoice Amount (US\$)
23 October 2018	160,505.71
28 November 2018	152,325.03
13 December 2018	227,247.33
31 January 2019	134,108.01
27 February 2019	212,208.51
25 March 2019	60,297.80

9. The Company paid the Petitioner's invoice dated 23 October 2018 on 9 November 2018. However, the Company failed to pay the remainder of the Petitioner's invoices when they fell due (the **Unpaid Invoices**).
10. The Petitioner sent a statement of account of the Unpaid Invoices to the Company on 2 April 2019. The statement of account set out that the total sum of the Unpaid Invoices at this date was US\$786,186.68.

The personal guarantee

11. Pursuant to an agreement dated 19 February 2019, Mr Steve Nicandros and Mr Zaza Mamulashvili (together, the **Guarantors**), entered into a guarantee and indemnity in respect of the Unpaid Invoices (the **Personal Guarantee**).
12. Pursuant to the Guarantee, the Guarantors jointly and severally guaranteed to the Petitioner payment of, and indemnified the Petitioner in relation to, *inter alia*, all monies, debts and liabilities of any nature from time-to-time due, owing or incurred by the Company to the Petitioner. The Personal Guarantee did not in any way affect the discharge of the Company's primary liability to the Petitioner: the Company was not a party to the Personal Guarantee.

The formal demand

13. The Petitioner issued a formal demand for immediate payment of the Unpaid Invoices by the Guarantors on 4 April 2019 (the **Formal Demand**). However, the Guarantors failed to pay the Unpaid Invoices pursuant to the Formal Demand at this date.

Partial payment in respect of the Unpaid Invoices

14. The Company paid US\$20,000.00 to the Petitioner in part payment of the Unpaid Invoices on 7 June 2019. Accordingly, the total sum of the Unpaid Invoices was reduced to US\$766,186.68 at this date (the **Guaranteed Debt**).

Proceedings in respect of the Personal Guarantee

15. The Petitioner issued a writ of summons in the Cayman Islands dated 23 July 2019 against the Guarantors (hereinafter, the **Defendants**), jointly and severally, seeking payment from the Defendants of the Guaranteed Debt as a debt due and owing, plus interest and costs, pursuant to the Personal Guarantee.
16. Each of the Defendants voluntarily consented to and agreed to summary judgment being entered against them jointly and severally in the Cayman Islands on 12 February 2020 (the **Judgment**).
17. Pursuant to the Judgment:
- (a) Judgment was entered against each of the Defendants jointly and severally in the sum of US\$924,924.90 (the **Judgment Debt**), comprising the debt claimed in the Writ of Summons, plus interest calculated and agreed from the date of issue of the Writ of Summons until the date of Judgment at the judicial rate of interest of 2 and 3/8% and the Petitioner's costs agreed at US\$96,771.00;
 - (b) The Petitioner agreed and confirmed that it would not enforce the Judgment prior to close of business on 26 February 2020 (the **Judgment Payment Date**) and the Petitioner and Defendants jointly and severally agreed and confirmed that if the Defendants or either one of them did not pay the Judgment Debt by the Judgment Payment Date, the Petitioner was

at liberty to enforce the Judgment Debt immediately against either or both of the Defendants; and

- (c) The Defendants agreed and were ordered to pay post-judgment interest on the Judgment Debt at the rate specified in section 34 of the Judicature Law (2017 Revision) and the Judgment Debts (Rate of Interest) Rules 2012 as amended.

18. However, the Defendants failed to pay the Judgment Debt or the interest accrued on the Judgment Debt by the Judgment Payment Date.

The settlement

19. The Petitioner applied for recognition of the Judgment against the Defendants in the 164th District Court of Harris County, Texas, United States of America, being the jurisdiction of residence of Mr Steve Nicandros on or about 18 July 2020 (the **Recognition Application**).
20. Following the Recognition Application, the Petitioner and, *inter alios*, the Company entered into a settlement agreement in respect of, *inter alia*, the Judgment Debt dated 5 June 2023 (the **Settlement Agreement**).
21. Pursuant to the Settlement Agreement:
- (a) The Company agreed to pay to the Petitioner the sum of US\$1,250,939.16 and interest on that sum (the **Settlement Sum**);
 - (b) The Company agreed to pay US\$150,000.00 of the Settlement Sum to the Petitioner on or before 1 September 2023 (the **First Instalment**);
 - (c) The Company agreed to pay the remaining balance of the Settlement Sum, of US\$1,100,96.16, to the Petitioner in two instalments of:

- (i) US\$200,000.00 on or before 1 December 2023; and
 - (ii) US\$900,936.16, plus interest accruing on the Settlement Sum from 1 January 2023 to the date of payment at a rate of 7.75% per annum, on or before 1 February 2024.
22. However, the Company failed to make payment of the First Instalment of the Settlement Sum by 1 September 2023 and has therefore breached the Settlement Agreement.

The statutory demand

23. The Petitioner served a statutory demand in respect of the:
- (a) Settlement Sum and further interest of US\$36,388.62 accrued up to the date of the Statutory Demand; or in the alternative
 - (b) Judgment Debt and further interest of US\$81,067.13 accrued up to the date of the Statutory Demand.
- on the Company at its registered office under section 93(a) of the Companies Act, on 20 October 2023 (the **Statutory Demand**).
24. The Statutory Demand notified the Company that if the sums due was not paid within 21 days, the Company would be deemed to be insolvent.
25. The deadline for payment of the Statutory Demand was 10 November 2023. The Company has failed to satisfy the Statutory Demand by this date or at all, and has raised no dispute or objection as to the sums due.

Relief sought

26. In the premises:
- (a) the Petitioner is a creditor of the Company and has standing to present this petition under section 94(1)(b) of the Companies Act;
 - (b) the Company is unable to pay its debts within the meaning of section 93 of the Companies Act and is therefore insolvent and should be wound up under section 92(d) of the Companies Act.
27. The Petitioner nominates Michael Green and Grant Hiley of Deloitte & Touche LLP, PO Box 1787, 60 Nexus Way, Grand Cayman, KY1-1109, Cayman Islands, to act as joint official liquidators of the Company.

YOUR PETITIONER THEREFORE HUMBLY PRAYS THAT:

- (1) The Company be wound up by the Court in accordance with the Companies Act.
- (2) Michael Green and Grant Hiley of Deloitte & Touche LLP, PO Box 1787, 60 Nexus Way, Grand Cayman, KY1-1109, Cayman Islands, be appointed as joint official liquidators of the Company (hereafter, the JOLs).
- (3) The JOLs shall not be required to give security for their appointment.
- (4) The JOLs have the power to act jointly and severally in their capacity as liquidators of the Company.
- (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 the JOLs and/or their appointment and/or powers in any other relevant jurisdiction and to make applications to the courts of such jurisdictions for that purpose.
- (7) The JOLs be at liberty to appoint such counsel, attorneys, 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 Order 25 of the Companies Winding Up Rules (2023 Consolidation).
- (8) No disposition of the property of the Company by or with the authority of the JOLs in carrying out their duties and functions and the exercise of their power under any order granted pursuant to this petition shall be voided by virtue of section 99 of the Companies Act.
- (9) Subject to section 109(2) of the Companies Act and the Insolvency Practitioners' Regulations (2023 Consolidation), the JOLs be authorised to render and pay invoices out of the assets of the Company for their own remuneration.
- (10) 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 the Company as an expense of the liquidation.
- (11) The JOLs be at liberty to apply generally.

- (12) The Petitioner's costs of and incidental to the Petition shall be paid forthwith out of the assets of the Company as an expense of the liquidation, such costs to be taxed on the indemnity basis if not agreed with the JOLs.
- (13) Such further or other relief as the Court deems appropriate.

Dated this 17th day of November 2023

Filed this day of November 2023



MOURANT OZANNES (CAYMAN) LLP

The Petitioner

This WINDING UP PETITION was presented by Mourant Ozannes (Cayman) LLP, Attorneys-at-Law, the Petitioner, whose address for service is PO Box 1348, 4th Floor, 94 Solaris Avenue, Camana Bay, Grand Cayman KY1-1108 (ref: 8041835/88762567/5).

NOTICE OF HEARING

TAKE NOTICE THAT the hearing of this petition will take place at the Law Courts, George Town, Grand Cayman on *16 January 2024* at *9* a.m./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, KY1-1106, telephone number +1 (345) 949 4296.