



COURT OF THE CAYMAN ISLANDS

SERVICES DIVISION

FSD CAUSE NO: 0036 OF 2024 (JAJ)

IN THE MATTER OF THE COMPANIES ACT (2023 REVISION)

AND IN THE MATTER OF ZINOBE HOLDINGS LIMITED

WINDING UP PETITION

To: The Grand Court of the Cayman Islands

The humble petition of York Town I, LLC, a limited liability company duly incorporated under the laws of the state of Delaware, United States of America, having its registered office at Harvard Business Services Incorporated, 16192 Coastal Highway, Lewes, Sussex, Delaware, United States of America (**Petitioner**), shows that:

Overview

- 1 This is a creditor's petition for a winding-up order in respect of Zinobe Holdings Limited on the basis that it is unable to pay its debts in terms of section 92(d) of the Companies Act (2023 Revision) (**Companies Act**).

Company Particulars

- 2 Zinobe Holdings Limited (registration number 337934) (**Company**) is an exempted company incorporated on or around 1 June 2018 in the Cayman Islands with limited liability under the Companies Act.
- 3 The Company carries on business as a holding company, holding shares in subsidiaries that provide financial services, including consumer and commercial credit services, to third parties in Colombia and Mexico.

- 4 The Company's registered office is at CO Services Cayman Limited, P.O. Box 10008, Willow House, Cricket Square, Grand Cayman KY1-1001, Cayman Islands.

Financing Arrangements

Credit Agreement

- 5 Zinobe SAS is a simplified joint stock company duly incorporated under the laws of the Republic of Colombia, carrying on business in Colombia, providing credit and lending services to third parties (**Zinobe SAS**). On 31 May 2021 Zinobe SAS changed its name to Servicios Crediticios Online De Colombia SAS.
- 6 Moss Tree Capital LP is an investment fund constituted as a limited partnership duly organised under the laws of the State of Delaware, United States of America (**Moss Tree**).
- 7 On or around 14 April 2020, Zinobe SAS and Moss Tree entered a contract entitled "Contrato De Línea De Crédito" or "Credit Line Agreement" in English (**Credit Agreement**).¹
- 8 Under the terms of the Credit Agreement, Moss Tree agreed to provide Zinobe SAS with a line of credit up to the equivalent in Colombian Pesos of USD3m, which could be extended to USD7m at the option of Moss Tree if certain conditions were satisfied.
- 9 The Credit Agreement was amended on several occasions through written addendums. Relevantly:
- (a) On 2 September 2020, Moss Tree assigned its rights and obligations under the Credit Agreement to the Petitioner via an addendum and assignment agreement entered between Moss Tree, Zinobe SAS and the Petitioner.²
- (b) On 12 October 2021, Zinobe Consumer Credits SAS, a simplified stock company duly incorporated under the laws of the Republic of Colombia (**Zinobe CC**), became a co-debtor under the Credit Agreement, together with Zinobe SAS, under its new name Servicios Crediticios Online De Colombia SAS, via an addendum entered between the Petitioner, Zinobe SAS and Zinobe CC.³

¹ Contrato de Línea de Crédito, dated 14 April 2020, which is governed by the laws of the Republic of Colombia (section 9.11).

² Otrosí No. 3 al Contrato de Línea de Crédito y Acuerdo de Cesión de Posición Contractual, dated 2 September 2020, which is governed by the laws of the Republic of Colombia (article 8).

³ Otrosí No. 4 al Contrato de Línea de Crédito dated 12 October 2021, which is governed by the laws of the Republic of Colombia (article 7).

(c) On 13 December 2022, Zinobe SAS assigned its rights and obligations under the Credit Agreement to Zinobe CC, who became the sole debtor under the Credit Agreement, via an addendum entered between the Petitioner, Zinobe SAS and Zinobe CC.⁴

10 As a result of the matters outlined in paragraph 9, the current creditor under the Credit Agreement is the Petitioner, while the current debtor is Zinobe CC.

Guarantee

11 On or around 12 October 2021, the Company and the Petitioner entered a contract of guarantee entitled "Corporate Guarantee" (**Guarantee**).⁵

12 Section 1.01 of the Guarantee provided:

The [Company] unconditionally guarantees the punctual payment when due, whether upon maturity, by acceleration or otherwise, of all payment obligations (now or hereafter existing) of [Zinobe CC] to the [Petitioner] in any form, owed by [Zinobe CC] to the [Petitioner] under that certain loan agreement (Contrato de Crédito) dated April 14, 2020 entered into by [Zinobe CC] and the [Petitioner] (as it has been and may be amended from time to time, the "Loan Agreement") (all such obligations being the "Secured Obligations"). If [Zinobe CC] fails to pay any Secured Obligation in full when due (whether at stated maturity, by acceleration or otherwise), the [Company] will promptly pay the remaining outstanding obligation to the [Petitioner]. The [Company] will also pay to [the Petitioner] any and all documented expenses (including, without limitation, reasonable documented legal fees and expenses) incurred by [the Petitioner] in enforcing its rights under this Guaranty. This Guaranty is a guaranty of payment and not merely of collection.

Facility Drawdown

13 In the period between 24 April 2020 – 28 June 2022, Zinobe SAS / Zinobe CC drew down a total of COP22,205,891,085.45 under the terms of the Credit Agreement.

Default under the Credit Agreement

14 On 29 September 2022, Zinobe CC and the Petitioner agreed to an amortisation and repayment schedule to the Credit Agreement (**Amortisation Schedule**).

⁴ Otrosí No. 5 al Contrato de Línea de Crédito dated 13 December 2022, which is governed by the laws of the Republic of Colombia (article 8).

⁵ Corporate Guarantee dated 12 October 2021, which is governed by the laws of the State of New York, United States of America (section 1.17).

- 15 In accordance with the terms of the Credit Agreement and the Amortisation Schedule, Zinobe CC was required to pay all amounts outstanding under the Credit Agreement by 24 November 2023.
- 16 Zinobe CC failed to repay all outstanding sums under the Credit Agreement by 24 November 2023, thereby defaulting on its obligations under the Credit Agreement.
- 17 On 18 December 2023, the amount outstanding under the Credit Agreement was COP14,767,387,661.53 (**Amount Outstanding**) (equivalent to USD 3,732,191.91, applying the foreign exchange rate prevailing at the time).
- 18 As the guarantor of Zinobe CC's obligations under the Guarantee, the Company was (and is) liable to pay the Amount Outstanding to the Petitioner.

Statutory Demand

- 19 On 21 December 2023, at 11:52 am, the Petitioner served a statutory demand issued under section 93 of the Companies Act on the Company at its registered office for the Amount Outstanding.
- 20 The Company was required to comply with the terms of the statutory demand by making payment of the Amount Outstanding within 21 days of service, being 11 January 2024.
- 21 The Company failed to comply with the terms of the statutory demand and make payment of the Amount Outstanding to the Petitioner within the required timeframe.
- 22 At the date of this Petition, the Amount Outstanding remains due and owing by the Company to the Petitioner.

Grounds for the Winding Up Order

- 23 Section 92 of the Companies Act provides that a company may be wound up by the Grand Court if, among other things, the company is unable to pay its debts.
- 24 Section 93 of the Companies Act provides that a company shall be deemed to be unable to pay its debts if, among other things, a creditor of the company has served on the company a demand requiring the company to pay the sum due and the company has failed to make payment within the three weeks of the date of service of the demand.
- 25 The Petitioner, being a creditor of the Company, has served a statutory demand under section 93 of the Companies Act on the Company.

- 26 The Company has failed to comply with the terms of the statutory demand within 21 days of service. Accordingly, the Company is unable to pay its debts in terms of section 93(a) and should be wound up pursuant to section 92(d) of the Companies Act.

THE PETITIONERS HUMBLY PRAY THAT:

- (a) The Company be wound up in accordance with the Companies Act.
- (b) Russell Smith and Declan Magennis of BDO CRI (Cayman) Limited are appointed as Joint Official Liquidators (**JOLs**) of the Company with the power to act jointly and severally.
- (c) The JOLs are not required to provide security for their appointment.
- (d) The JOLs are authorised to take any action they consider necessary or desirable in connection with the liquidation of the Company and the winding up of affairs in the Cayman Islands or elsewhere.
- (e) The JOLs are sanctioned to exercise the following powers outlined in Part One of the Third Schedule of the Companies Act without further order of the Court:
 - (i) The power to bring or defend any action or other legal proceeding in the name and on behalf of the Company.
 - (ii) The power to make a compromise or an arrangement with creditors or persons claiming to be creditors or who have or allege the existence of a claim against the company, whether present or future, actual or contingent, or ascertained or not.
 - (iii) The power to compromise calls and liabilities for calls, debts, and liabilities capable of resulting in debts and claims, present or future, actual or contingent, or ascertained or not, subsisting or supposed to subsist between the company and any person and all questions relating to or affecting the assets or the liquidation of the company, on such terms as may be agreed, and take security for the discharge of any such call, debt, liability, or claim, and give a complete discharge.
 - (iv) The power to sell or otherwise dispose of the property of the Company.
 - (v) The power to engage staff (whether or not as employees of the Company) to assist the JOLs in the performance of their functions.

- (vi) The power to engage attorneys and other professionally qualified persons to assist the JOLs in the performance of their functions, within and outside of the Cayman Islands, and on such terms as the JOLs think fit, and to remunerate them out of the assets of the Company as an expense of the official liquidation.
- (f) The JOLs are additionally empowered to exercise the following powers without further order of the Court:
 - (i) The JOLs are authorised to take any action as may be necessary or desirable to obtain recognition of the official liquidation and their appointment as JOLs in Colombia, Mexico or any other relevant jurisdiction, together with such other relief as the JOLs deem necessary for the proper exercise of their functions in that jurisdiction.
 - (ii) The power to control and otherwise deal with all existing bank accounts in the name of the Company and to open new bank accounts in the name of the Company.
 - (iii) The power to appoint an agent to do anything the JOLs cannot do.
 - (iv) The power to change the registered office of the Company.
- (g) The JOLs may exercise the powers granted to them within and outside of the Cayman Islands.
- (h) No suit, action or other proceeding may be proceeded with or commenced against the Company except with the leave of the Court and subject to such terms as the Court may impose.
- (i) No disposition of the Company property by, or with the authority of, the JOLs in carrying out their functions and exercising their powers shall be voided under s 99 of the Companies Act.
- (j) The costs of this Petition shall be paid out of the assets of the Company as an expense of the official liquidation.
- (k) The JOLs are at liberty to apply generally.

(l) Such further or other orders are made as the Court deems fit.

AND your Petitioner will ever pray, etc.

Dated: 2 February 2024



DENTONS

Attorneys for the Petitioner

THIS PETITION was issued by Dentons, attorneys for the Petitioner, whose address for service is Dentons, Floor Two, One Capital Place, Shedden Road, P.O. Box 10190, Grand Cayman KY1-1002 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 the 5th day of March 2024, at 10.00 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 of the Cayman Islands at PO Box 495, Grand Cayman, KY1-1106. The Registrar may be contacted using the following information: +1 (345) 949-4296 or FSDRegistry@Judicial.ky.