



IN THE GRAND COURT OF THE CAYMAN ISLANDS

FINANCIAL SERVICES DIVISION

CAUSE NO: FSD OF 2024 (JAJ)

IN THE MATTER OF THE COMPANIES ACT (2023 REVISION)

AND IN THE MATTER OF INTERNATIONAL INVESTMENT CAPITAL LTD.

WINDING UP PETITION

To: The Grand Court of the Cayman Islands (the "**Court**")

The humble petition of NCB (Cayman) Limited of The Pavilion, Cricket Square, P.O. Box 31120, George Town, Cayman Islands, KY1-1205 (the "**Petitioner**"), shows that:

Introduction

1. The Petitioner presents this petition for the winding up of International Investment Capital Ltd. (the "**Company**") and seeks the appointment of joint official liquidators over the Company.
2. The Petitioner is a creditor of the Company and seeks the winding up of the Company pursuant to Section 92(d) of the Companies Act (2023 Revision) (the "**Act**") on the grounds that the Company is unable to pay its debts.

The Company

3. The Company is an exempted company with limited liability incorporated on 11 January 2022 and organised pursuant to the Act. The registration number of the Company issued by the Registrar of Companies is 385685.

4. The registered office of the Company was previously at Zedra Trust Company (Cayman) Limited, 23 Lime Tree Bay Avenue, PO Box 10176, Grand Cayman, KY1-1002, Cayman Islands. However, a recent search of the Cayman Online Registry Information System states, "Registered Office Resigned" and the Company's status as "Strike Off Pending". The Cayman Islands Gazette dated 23 September 2024, lists the Company as one which *"the Registrar of Companies, having reasonable cause to believe that the undermentioned companies incorporated under the Acts of the Cayman Islands are no longer carrying on business or are not in compliance with Sections 168 and 169, intends to strike the said companies from the Register as of the 31 October 2024, in accordance with the provisions of Section 156 of the Companies Act."*
5. The Company is a customer of the Petitioner, opening a bank account with the Petitioner on 29 April 2022 (the "**Company's Bank Account**").
6. The Company provides working capital to regulated healthcare facilities in the United States. To the best of the Petitioner's knowledge, based on the documents provided by the Company during the "Know Your Client" process that preceded the opening of the Company's Bank Account, the Company's business activity to date has been to raise financing in Europe through a notes program distributed by AlphaNotes ETP DAC (a company incorporated under the laws of Ireland), the proceeds of which were used to provide financing to Sinai Holdings LLC ("**Sinai**") a Florida-incorporated limited liability company operating in the United States healthcare sector. The Petitioner understands that collections from public and private insurance providers were sent from Sinai to Collection Consolidation LLC ("**Collection Consolidation**"). Collection Consolidation is another company within the wider Company group.

The Petitioner

7. The Petitioner is incorporated under the laws of the Cayman Islands and regulated by the Cayman Islands Monetary Authority. It offers private banking, investment banking and wealth management services within the Cayman Islands.
8. The Petitioner is a creditor of the Company and has standing to present this petition under section 94(1)(b) of the Act.

9. The Petitioner nominates Yvonne Plamondon and David Griffin of FTI Consulting (Cayman) Limited, Suite 3206, 53 Market Street, Camana Bay, Grand Cayman KY1-1203, Cayman Islands to act as joint official liquidators of the Company.

Particulars of the debt

10. On 27 June 2022, the Petitioner received incoming funds of US\$1,480,913.32 to its intermediary bank, Bank of New York Mellon Corp ("**BNY**"), from Collection Consolidation but which contained no "for further credit" information. Collection Consolidation previously held a bank account with the Petitioner, but this had been closed prior to 27 June 2022 and the payment therefore came in from another bank. On the same day, Collection Consolidation sent a correcting message indicating that funds should be credited to the Company's Bank Account. The instruction was effected on 28 June 2022.
11. Due to a banking error, the wider Company group received the US\$1,480,913.32 payment twice (the "**Mistaken Payment**") when, on 15 July 2022, BNY also executed a "return to sender" instruction and US\$1,480,913.32 was returned to Collection Consolidation. The error was discovered by the Petitioner on or around 15 August 2022.
12. In subsequent correspondence between the Petitioner and the Company, the Company accepted that the US\$1,480,913.32 payment had been received twice but claimed it was unable to repay the Mistaken Payment in full at that stage as it had utilised the sums in its business.
13. Consequently, the Petitioner and the Company entered into a Cayman Islands' law governed Agreement to Repay dated 20 October 2022 (the "**First Agreement to Repay**") and a Promissory Note dated 1 November 2022 (the "**Promissory Note**") in respect of the Mistaken Payment, which set out a repayment schedule in respect of the Mistaken Payment.
14. Recital G of the First Agreement to Repay sets out that, "*IIC [the Company] acknowledges that it was overpaid and agrees to repay the Bank [the Petitioner] the funds overpaid in the sum of US\$1,480,913.32 but wishes to pay in instalments.*"

15. Recital H sets out that, "*The Bank has agreed to allow repayment in instalments and the Parties now wish to set out the terms and conditions upon which repayment will be effected.*"
16. The repayment schedule under the First Agreement to Repay provided that the Company would pay a lump sum of US\$300,000 on or before 28 October 2022 and would repay the remaining sum of US\$1,180,913.32 no later than 31 December 2022. Clause 1.3 of the First Agreement to Repay provided that interest was to accrue at a rate of 5% per annum from 1 October 2022 on all unpaid principal. Clause 1.4 of the First Agreement to Repay provided that, from 31 December 2022, compound interest would be due on overdue principal and interest at an additional rate of 3% per annum (above the agreed rate of 5% per annum). The First Agreement to Repay also provided that the Company would pay, on demand, the Petitioner's reasonable expenses (including legal expenses) incurred in connection with the enforcement of its rights under the First Agreement to Repay.
17. The Company paid US\$300,000 on 1 November 2022 (broadly in compliance with the repayment schedule under the First Agreement to Repay) but thereafter defaulted on the First Agreement to Repay.
18. On 28 February 2023, in consequence of the Company's default under the First Agreement to Repay and the Promissory Note, the Petitioner served upon the Company a statutory demand (pursuant to section 93(a) of the Act and Order 2 of the Companies Winding Up Rules (2023 Consolidation) ("**CWR**")) (the "**Statutory Demand**").
19. Following service of the Statutory Demand, the Petitioner and the Company entered into negotiations and, on 18 April 2023, the parties entered into a revised agreement to repay with an amended repayment schedule (the "**Revised Agreement to Repay**").
20. The Revised Agreement to Repay provided that *inter alia*:
 - a) the Company acknowledged the outstanding debt due to the Petitioner;
 - b) the Company would make monthly repayments of US\$100,000 (clause 3.1 of the Revised Agreement to Repay) (the "**Monthly Repayments**");

- c) interest would accrue on all outstanding debt and interest at a rate of 8% per annum, compounding (clause 3.2 of the Revised Agreement to Repay); and
- d) the Revised Agreement to Repay was governed by the law of the Cayman Islands and the parties submitted to the exclusive jurisdiction of the courts of the Cayman Islands, including in respect of any winding up proceedings in connection with the outstanding debt.

21. In addition, clause 2.5. of the Revised Agreement to Repay provided that:

"The Debtor [the Company] agrees that if it defaults on any of the terms of this Agreement, the Creditor [the Petitioner] shall be entitled to immediately commence winding-up proceedings pursuant to section 93(a) of the Companies Act (provided that twenty-one days have elapsed since service of the Statutory Demand on 28 February 2023)."

22. By clause 2.8 of the Revised Agreement to Repay, the Petitioner reserved all its rights under the Statutory Demand, First Agreement to Repay and Promissory Note (except as provided for under the Revised Agreement to Repay).

23. The Company initially made the Monthly Repayments. However, it last made a (partial) repayment under the Revised Agreement to Repay in July 2023.

24. On 21 February 2024, the sole director of the Company emailed its relationship manager at the Petitioner to inform the Petitioner that the Company *"are currently not in position to make additional payments for the time being."* Various unsuccessful attempts to resolve the issues regarding the Mistaken Payment were made following this email.

25. As at the date of this Petition, the Company has failed to make any further repayments under the Revised Agreement to Repay and has not complied with the Statutory Demand, which has now been outstanding for over 21 days.

26. The Company is therefore deemed unable to pay its debts and is insolvent pursuant to section 93(a) of the Act, being that:

"a creditor by assignment or otherwise to whom the company is indebted at law or in equity in a sum exceeding one hundred dollars then due, has served on the company by leaving at its registered office a demand under that person's hand requiring the company to pay the sum so due, and the company has for the space of three weeks succeeding the service of such demand, neglected to pay such sum, or to secure or compound for the same to the satisfaction of the creditor;"

27. In the alternative, the Petitioner submits that it has proven that the Company is unable to pay its debts pursuant to section 93(c) of the Act.
28. As at 30 September 2024, the outstanding sum due under the Revised Agreement to Repay, including accrued interest, stands at US\$668,371.74.

Your Petitioner therefore humbly prays that:

1. The Company be wound up in accordance with Part V of the Act.
2. Yvonne Plamondon and David Griffin of FTI Consulting (Cayman) Limited, Suite 3206, 53 Market Street, Camana Bay, Grand Cayman KY1-1203, Cayman Islands be appointed to act, jointly and severally, as joint official liquidators of the Company (the "JOLs").
3. The JOLs shall not be required to give security for their appointment.
4. 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 in any other relevant jurisdiction and to make application to the courts of such jurisdictions for that purpose.
5. The JOLs have the power to act jointly and severally and, in addition to the powers prescribed in Part II of the Third Schedule of the Act which are exercisable without sanction of the Court, can exercise any of the following powers set out in Part I of the Third Schedule of the Act within and outside the Cayman Islands without further sanction or intervention of the Court:
 - a) the power to pay any class of creditors in full; and

- b) the power to engage attorneys and other professionally qualified persons to assist them in the performance of their functions;
6. Without prejudice to the generality of the foregoing, the JOLs be authorised and be granted leave to take all such actions as may be necessary to:
- a) investigate the affairs of the Company and any direct and indirect subsidiaries (the "**Subsidiaries**");
 - b) take control of such Subsidiaries, and/or joint ventures, investments, associated companies, business or other entities (together the "**Associated Companies**") in which the Company holds an interest (or such shares of such Subsidiaries and/or Associated Companies as are owned directly or indirectly by the Company), in each case wherever located, as the JOLs shall think fit;
 - c) take steps to locate, demand and secure cash held by the Company and any Subsidiaries in the Cayman Islands and elsewhere; and
 - d) be granted unrestricted access by the Company and its directors forthwith to all books, records and documents of the Company (whether in hard copy form or stored electronically).
7. The JOLs' remuneration and expenses be paid out of the assets of the Company in accordance with section 109 of the Act, the Insolvency Practitioners' Regulations (2023 Consolidation), the Insolvency Practitioners' (Amendment) Regulations 2024, and Order 20 of the CWR.
8. The JOLs be at liberty to meet all disbursements reasonably incurred with the performance of their functions.
9. The JOLs be at liberty to and do pay their agents, employees, attorneys, solicitors and whomsoever else they may employ or instruct, remuneration and costs, 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 expenses of the winding up.

10. No suit, action or other proceedings, including criminal proceedings, shall be proceeded with or commenced against the Company except with leave of the Court pursuant to section 97 of the Act.
11. 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 avoided by virtue of section 99 of the Act.
12. The Petitioner's costs of and incidental to this Petition be paid from the assets of the Company on the indemnity basis, as an expense of the liquidation.
13. The JOLs be at liberty to apply generally.
14. Such further or other orders or directions as the Court thinks fit.

AND your Petitioner will ever pray etc.

DATED the 3rd day of October 2024

Walkers (Cayman) LLP

WALKERS (Cayman) LLP

Attorneys-at-Law for the Petitioner

NOTE: This Petition is intended to be served on the Company and in accordance with any other order of the Court.

TAKE NOTICE THAT the hearing of this Petition will take place at the Law Courts, George Town, Grand Cayman, Cayman Islands on the 20 day of November 2024 at 10:30 a.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 P.O. Box 495, Grand Cayman KY1-1106, telephone 345 949 4296.

This Petition was presented by Walkers, Attorneys-at-Law for the Petitioner, whose address for service is care of their said Attorneys at 190 Elgin Avenue, George Town, Grand Cayman KY1-9001, Cayman Islands.