



**IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION**

CAUSE NO: FSD 247 OF 2024 (DDJ)

**IN THE MATTER OF THE COMPANIES ACT (2023 REVISION) AND THE EXEMPTED
LIMITED PARTNERSHIP ACT (2021 REVISION)**

AND IN THE MATTER OF POINTGUARD VENTURES I, L.P.

AMENDED WINDING UP PETITION

To the Grand Court

The humble petition of Suning International Limited, a company incorporated under the laws of Hong Kong Special Administrative Region (the **Petitioner**), whose registered office is situated at Rm 05-15, 13A Floor, World Finance Centre South Tower, No. 17 Canton Road, Tsim Sha Tsui, Kowloon, Hong Kong SAR shows that:

1. The Petitioner presents this petition for the winding up of PointGuard Ventures I, L.P. (the **Fund**) and the appointment of Mitchell Mansfield of Kroll (Cayman) Ltd. and Li Hang Chun (also known as Jonathan Li) of Kroll (HK) Limited as joint official liquidators.
2. The Petitioner is a creditor of the Fund and seeks the winding up of the Fund pursuant to section 92(d) of the Companies Act (2023 Revision) (as amended) (the **Companies Act**), applicable by virtue of section 36(3) of Exempted Limited Partnership Act (2021 Revision) (**ELP Act**), on the basis that the Fund is unable to pay its debts.

The Fund and its business

3. The Fund is an exempted limited partnership registered pursuant to the ~~Exempted Limited Partnership Act (2013 Revision)~~ ELP Act. It was formed on 21 January 2014 with registration number 73721. The Fund has, since 7 August 2020, been registered as a private fund with the Cayman Islands Monetary Authority with reference number 1793945. The registered office of the Fund is c/o Maples Corporate Services Limited, PO Box 309, Ugland House, South Church Street, George Town, KY1-1104, Cayman Islands. The principal office of the Fund is at 349 1st Street, Los Altos, CA 94022, United States of America.
4. As stipulated in the Amended and Restated Limited Partnership Agreement dated 29 January 2014 and as amended by Amendment No.1 on 31 January 2015 and Amendment No. 2 in February 2017 (together, the **LPA**), the primary purpose of the Fund is to provide opportunities to partners of the Fund to realize long-term appreciation, generally through venture capital investments in equity-oriented securities of private and public companies with an emphasis on “technology convergence” companies.
5. Pursuant to the LPA, the Fund is managed by the general partner, PointGuard Management I, L.P. (**GP**), a Cayman Island exempted limited partnership (~~GP~~) which has the sole and exclusive right to manage, control, and conduct the affairs of the Fund and do any and all acts on behalf of the Fund.
6. ~~Pursuant to Article 2.1 of the LPA, the term of the Fund shall continue until the tenth anniversary of the date of the Fund’s initial admission of a limited partner and therefore the term of the Fund has already expired on or around 28 January 2024. The Petitioner has not received any notice suggesting that the term of the Fund has been extended under Article 10.1 of the LPA.~~

The Petitioner

7. The Petitioner is one of the limited partners of the Fund after it subscribed to the limited partner interest pursuant to the Subscription Agreement of the Fund and committed to the capital commitment of US\$30,000,000 on 27 February 2014.
8. Pursuant to the GP’s transfer instructions in around March to December 2014, the Petitioner completed the capital contribution of US\$24,112,500. Subsequently on 30 December 2016, the Petitioner transferred **its interest representing** an aggregate capital

commitment of US\$5,887,500 (i.e. the balance of its initial capital commitment) to Expand Ocean Limited with the consent of the GP. In the circumstances, the Petitioner has settled its capital commitment in full with a view to being paid via cash distribution when such distributions were declared.

The Debt

9. The ~~Company Fund~~ is indebted to the Petitioner in the sum of US\$4,822,188 being the unpaid cash distribution to the Petitioner.
10. The Petitioner was notified of a distribution in April 2019 pursuant to a letter dated 11 April 2019 from the Fund to the Petitioner, and accordingly received the distribution in the sum of US\$2,411,250 (the **2019 Distribution**). Apart from the 2019 Distribution, the Petitioner had never been notified of any other distribution, and has never received any other payment from the Fund.
11. On 13 January 2023, the Petitioner received an email from the auditor of the Fund, enclosing a letter ~~from the GP~~ dated 9 January 2023, seeking confirmation from the Petitioner that the total ~~sum of cumulative~~ distributions paid the Petitioner as of 31 December 2022 amounted to US\$7,233,438. Given that the Petitioner has only received the 2019 Distribution, there had to be another cash distribution in the sum of US\$4,822,188 (US\$7,233,438 less US\$2,411,250) which was declared by the Fund and should have been paid to the Petitioner as of 31 December 2022 (the **Debt**).
12. ~~Upon further review, the Petitioner became aware that the Fund's own unaudited financial statements for the year ended 31 December 2021 disclosed a capital distribution to the Petitioner in the amount of \$4,822,182 (i.e. materially the same sum as the Debt). Such distribution had not in fact been paid to the Petitioner.~~
13. Despite repeated emails from the Petitioner to the ~~Fund and the~~ GP, no further details were provided on the payment of the Debt. In March 2023, the Petitioner instructed its PRC legal counsel to demand repayment of the Debt by emailing and the Petitioner subsequently followed up by calling the relevant representative of the Fund. No substantive reply was received ~~to date~~ and the Debt remains unsettled.
14. On 8 May 2024, the Petitioner instructed Appleby to issue a final demand letter to the Fund and the GP requesting full payment of the Debt on or before 22 May 2024. Again, no substantive reply was received ~~to date~~ and the Fund has failed and neglected to pay or satisfy the same.

15. To date, the Debt has not been repaid. Accordingly, the Debt remains outstanding in full as of the date of presentation of this Petition, and the Petitioner is a creditor of the Fund ~~for the balance in the amount~~ of the Debt.

Grounds for Winding Up – Inability to Pay Debts

16. Based on the ~~Company's Fund's~~ failure to satisfy the Statutory Demand (described below) or otherwise make arrangements for the payment of the Debt, the Fund is deemed to be unable to pay its debts and is liable to be wound up pursuant to section 92(d) of the Companies Act), ~~applicable by virtue of section 36(3) of the ELP Act. Moreover, as stated at paragraph 6 above, the term of the Fund has expired and should in any event be liquidated.~~

Failure to satisfy statutory demand — section 93(a) Companies Act

17. On 31 May 2024, a statutory demand (**Statutory Demand**) in the form prescribed by the Companies Winding Up Rules, ~~2018~~ (2023 Consolidation) (the **CWR**) was served on the Fund at its registered office demanding payment.
18. Pursuant to CWR Order 2, rule 2(6), the Statutory Demand included a statement that if payment was not made within 21 days of the date upon which it was served on the Fund, the Fund would be deemed to be insolvent and a winding up petition may be presented against the Fund in accordance with section 92(d) of the Companies Act.
19. ~~On 20 June 2024, Mr Wing So (then of Rede Chambers in Hong Kong) wrote to Appleby on behalf of the Fund and GP in response to the issuance of the Statutory Demand. The letter asserted that this matter was subject to an arbitration clause in the LPA, and that an alleged affiliate entity of the Petitioner was subject to an arbitral award debt. The Debt itself was not denied, and neither of the bases put forward constitute a defence to the payment of the Debt.~~
20. ~~Notwithstanding that over a year has lapsed since the Petitioner's first demand, and the Statutory Demand having served on the Fund, neither the Fund nor the GP disputed the Debt, the Petitioner's entitlement to which or the amount of the Debt owe to the Petitioner. There is no dispute as regard to the terms of the LPA or any other underlying documents, the Petitioner is simply requesting the Fund to settle the unpaid cash distribution (i.e. the Debt) which has declared but unpaid.~~
21. To date, the Debt has not been paid. Accordingly, the Debt remains outstanding in full as of the date of presentation of this Petition.

22. Based on the Fund's failure to satisfy the Statutory Demand or otherwise make arrangements for the payment of the Debt, the Fund is deemed to be unable to pay its debt and is liable to be wound up.

~~Fund unable to pay debts—section 93(c) Companies Act~~

23. ~~Further or alternatively, in the premises, and noting the Fund's failure to pay the Debt and its breach thereby of the LPA, it can readily be inferred that the Fund does not have sufficient liquid assets to pay the Debt, and therefore that the Fund is unable to pay its debts.~~

~~The period fixed for the duration of the Fund (pursuant to the LPA) has expired—section 92(c) Companies Act~~

24. ~~Further or alternatively, the term of the Fund has expired and should in any event be liquidated.~~

Proposed Official Liquidators

25. Mitchell Mansfield and Li Hang Chun have undertaken due conflicts checks and diligence in relation to the Fund and meet the residency, eligibility and insurance requirements of the Insolvency Practitioners' Regulations (2023 Consolidation) (as amended). Mitchell Mansfield and Li Hang Chun also consent to their appointment as joint official liquidators.

YOUR PETITIONER THEREFORE HUMBLY PRAYS THAT:

- (1) The Fund be wound up in accordance with ~~section 36 of the ELP Act and Part V of the Companies Act.~~
- (2) Mitchell Mansfield of Kroll (Cayman) Ltd, ~~Strathvale House, Level 3, 90 North Church Street, George Town, PO Box 30847 Grand Cayman, Cayman Islands, KY1-12,~~ and Li Hang Chun (also known as Jonathan Li) of Kroll (HK) Limited, ~~Three Pacific Place, Level 3 1 Queen's Road East, Hong Kong,~~ be appointed as joint official liquidators of the ~~Company~~ Fund (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 Fund.

- ~~(5) 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 applications to the courts of such jurisdictions for that purpose.~~
- (6) The JOLs be authorised to exercise the following powers listed in Part I of Schedule 3 to the Companies Act and section 110(2) thereof, without function sanction or intervention of the Court:
- a. The power to carry on the business of the Fund so far as may be necessary for its beneficial winding up.
 - b. The power to engage staff (whether or not as employees of the Fund) to assist that person in the performance of that person's functions.
 - c. The power to engage attorneys and other professionally qualified persons, **whether in the Cayman Islands or elsewhere**, to assist that person in the performance of that person's functions.
 - d. ~~The power to bring such proceedings as may be necessary or desirable to obtain recognition of the JOLs and/or their appointment in any other relevant jurisdiction.~~
- (7) The JOLs be authorised to exercise any of the powers listed in Part II of Schedule 3 to the Companies Act and section 110(2) thereof, without further sanction or intervention of the Court.
- ~~(8) The JOLs be authorised to do any act or thing considered by them to be necessary or desirable in connection with the liquidation of the Fund and the winding up of its affairs in the Cayman Islands or elsewhere.~~
- ~~(9) 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 CWR Order 25 and on such terms as they may think fit and to remunerate them out of the assets of the Fund.~~
- (10) No disposition of the Fund's property by or with the authority of the JOLs in carrying out their duties and function sand exercise of their powers under this Order shall be voided by virtue of section 99 of the Companies Act.

- (11) Subject to section 109(2) of the Companies Act and the Insolvency Practitioners' Regulations (2023 Consolidation) (as amended), the JOLs be authorised to render and pay invoices out of the assets of the Fund for their own remuneration.
- (12) 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 Fund as an expense of the liquidation.
- (13) The Petitioner's costs shall be paid out of the assets of the Fund as an expense of the liquidation, such costs to be taxed **on an indemnity basis** if not agreed with the JOLs.
- (14) Such further or other relief be granted as the Court deems appropriate.


Dated this 8th day of August 2024

Filed this day of August 2024

AMENDED PETITION

Re-dated this 15th day of October 2024

Re-filed this day of October 2024


Appleby (Cayman) Ltd.
Attorneys-at-Law for the Petitioner

TIME ESTIMATE: The estimated length of the hearing of this Petition is ~~1 hour~~ **two days**.

NOTE: This petition is intended to be served on the Fund at its registered office.

This **Petition** is presented by Appleby (Cayman) Ltd, Attorneys-at-Law for the Petitioner, whose address for service is 9th Floor, 60 Nexus Way, PO Box 190, Camana Bay, Grand Cayman, Cayman Islands KY1-1104 (Ref. 466064.0001)

NOTICE OF HEARING

TAKE NOTICE THAT the hearing of this Petition will take place at the Law Courts, George Town, Grand Cayman on ~~10 October 2024~~ 20 and 21 November 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 at PO Box 495, Grand Cayman, KY1-1106, telephone no. 349 949 4296.