



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

**CAUSE NO. FSD \_\_\_\_\_ of 2024**

**IN THE MATTER OF THE COMPANIES ACT (2023 REVISION)  
AND IN THE MATTER OF CLO SEA 2 LTD (IN VOLUNTARY LIQUIDATION)**

---

**PETITION**

---

**To the Grand Court:** this humble petition (“**Petition**”) of Fortress Credit Corp., a Delaware corporation with a business address at 1345 Avenue of the Americas, New York, NY 10020, United States of America (“**Fortress**” or “**Petitioner**”), shows that:

**A. COMPANY**

1. Clo Sea 2 Ltd (“**Company**”) was incorporated as an exempted limited company on 10 March 2023 under the laws of the Cayman Islands with registration number 398324. The Company’s registered office is Lantana Corporate Services Ltd., P. O. Box 1808, 4th Floor Anderson Square, Shedden Road, George Town, Grand Cayman KY1-1109, Cayman Islands.
2. From 15 March 2023 the sole director of the Company was Charles S. Cohen (“**Cohen**”). Cohen has been sole shareholder of the Company since 10 March 2023.
3. From March 2023 to July 2024 the Company’s sole or primary asset was a 2023 Rivamare motorboat called the “Clo Sea” (the “**Clo Sea**”). However, in or around July 2024, the

ownership of Clo Sea was transferred to Aquila Sea Limited (“ASL”), a Cayman Islands exempted limited liability company that was incorporated on 10 May 2024 with registration number 409840.

## **B. VOLUNTARY LIQUIDATION**

4. On 24 July 2024, the Company was placed into voluntary liquidation by special resolution under s.116(c) of the Companies Act (2023 Revision) (the “**Companies Act**”), with Peter de Vere, appointed as voluntary liquidator.
5. Absent any application under section 151(3) of the Companies Act, the Company will be deemed to be dissolved on 9 December 2024.

## **C. POTENTIALLY VOIDABLE TRANSACTION**

6. On 15 September 2022 Cohen executed a Payment Guaranty (“**Guaranty**”) with the Petitioner which guaranteed payment obligations, up to the value of US\$187,250,000, in relation to an underlying loan in the amount of over half a billion dollars from the Petitioner (as agent and as a member of a syndicate of lenders) to various entities operated and / or owned by Cohen (“**Loan**”).
7. Following a default on the Loan, the Petitioner filed proceedings under the Guaranty in the New York State Supreme Court (“**NY Court**”) on 25 March 2024. During the pendency of the proceedings before the NY Court, Cohen provided certain financial disclosures to the Petitioner which represented, *inter alia*, that Clo Sea was a personal asset. In the circumstances the Company was incorporated to serve as a holding vehicle for Cohen. The Petitioner reserves its position as to the true nature and/or legal effect of the Company’s holding of Clo Sea.
8. On 3 October 2024, the NY Court granted the Petitioner’s motion for summary judgment on the Guaranty but has not yet entered judgment in respect of the same. As set out above, the

ownership of Clo Sea has changed during the pendency of the proceedings brought under the Guaranty.

9. Consequently, on 31 October 2024, the Petitioner applied by way of originating summons in the Grand Court of the Cayman Islands (under claim number FSD 325 of 2024) for a Norwich Pharmacal Order as against various legal and natural persons involved in, *inter alia*, the transfer of Clo Sea from the Company to ASL (“**NPO Respondents**”). The evidence before the Court stated, *inter alia*, that the rationale for the relief sought was that:

*“[The Petitioner] seeks to understand whether Cohen remains the ultimate beneficial owner of the vessels he claimed to own in the 2023 Cohen Statement. If he does, then [the Petitioner] can consider whether to seek to enforce against the entities that now hold those vessels. If he is not, then there are a number of possible claims to unwind the transactions that led to those assets being transferred out of his ownership.”*

10. Justice Doyle granted the Petitioner Norwich Pharmacal relief the same day which ordered various disclosures of documents and details as regards the transfer of Clo Sea from the Company to ASL.

11. Pursuant to Justice Doyle’s order, the Petitioner learned on 14 November 2024 that the ultimate beneficial owner of ASL is Cohen’s wife (“**Mrs Cohen**”). Following further correspondence with the NPO Respondents’ attorneys, it was ultimately disclosed to the Petitioner on 2 December 2024 that:

- a. Cohen (or employees acting on his behalf) instructed the NPO Respondents to transfer the ownership of Clo Sea from the Company to ASL; and
- b. Consideration for the transfer was stated to be “*US\$10.00 and other valuable consideration*”.

12. In circumstances where Cohen had previously represented that Clo Sea (as a 2023 Rivamare) was a personal asset, the Petitioner is concerned that Cohen is taking steps to frustrate the

enforcement of judgment under the Guaranty. Specifically, the transfer of Clo Sea to ASL shortly prior to the initiation of liquidation proceedings for what appears to be nominal consideration is arguably a disposition of property made with an intent to defraud and at an undervalue. Such a disposition would be potentially voidable, but unwinding the transfer would require the Company to exist and not to have been dissolved. In the circumstances, the Petitioner applies to the Court.

#### **D. APPLICATION UNDER SECTION 151(3)**

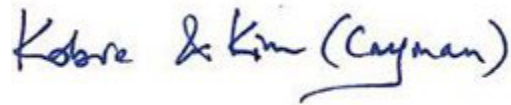
13. The Petitioner seeks that the date of dissolution of the Company scheduled to take effect on 9 December 2024, be deferred for six months pursuant to section 151(3) of the Companies Act. Such a time-limited deferral is requested to allow the Petitioner to conduct further enquiries, take further advice, and ultimately (if so advised) take such actions as are necessary to protect its position in Cayman (or elsewhere).
14. In this regard the Petitioner is an “*interested person*” for the purposes of section 151(3) of the Companies Act. Specifically, it has a pecuniary or proprietary interest in deferring the dissolution of the Company, in the sense that claims that it might be advised to bring are likely to involve the Company as a necessary party and/or involve its documents. Specifically, it is submitted that proceeding in this manner is more proportionate, and likely to prove less of a strain on the time and resources of this Honourable Court than the Petitioner attempting (if so advised) to reinstate the Company later, *after* it has been dissolved.
15. Further in this regard, there is no prejudice to the Company or the liquidator in deferring the dissolution date, as dissolution of the Company will still occur automatically (albeit later) should the Petitioner take no further steps against or involving the Company.

**Your Petitioners therefore humbly pray that:**

- (1) The date of dissolution of the Company, scheduled to take effect on 9 December 2024, be deferred pursuant to section 151(3) of the Companies Act (2023 Revision) until 3 June 2025 (the “**Deferred Date**”).
- (2) The Petitioner shall have liberty to apply to extend the Deferred Date.
- (3) Such further order or directions as the Court deems appropriate.

AND your Petitioners will ever pray, etc

Dated this 3 day of December 2024



---

**Kobre & Kim (Cayman)**

**Attorneys-at-Law for the Petitioner**

**NOTICE OF HEARING**

TAKE NOTICE THAT the hearing of this petition will take place at the Law Courts, George Town, Grand Cayman, on the \_\_\_ day of \_\_\_\_\_ 2024 at \_\_\_ am / pm.

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 +1 (345) 949 4296.