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IN THE GRAND COURT OF THE CAYMAN ISLANDS
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

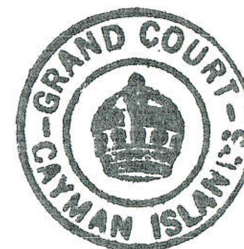
CAUSE NO. 830 OF 2003

IN THE MATTER OF THE COMPANIES LAW (2004 REVISION)

AND IN THE MATTER OF PARMALAT CAPITAL FINANCE LIMITED
(In Provisional Liquidation)

Appearances: Mr. Michael Crystal Q.C. instructed by Ms. Sandie Corbett of Walkers for the Petitioners
Mr. Charles Quin Q.C. of Quin and Hampson for Bank of America, a creditor
Mr. Gabriel Moss Q.C. and Mr. Dominic McCahill instructed by Ms. Andrea Dunsby of Turner & Roulstone for the opposing creditors

Before: Hon. Justice Henderson



Heard: February 27 & 28 and March 2 & 3, 2006

JUDGMENT

During the hearing of this winding up petition each of the parties took objection to the standing of the other. The petition is presented by Food Holdings Limited ("Food") and Dairy Holdings Limited ("Dairy") against Parmalat Capital Finance Limited ("PCFL"), a subsidiary in the Parmalat Group. There is no dispute that PCFL is hopelessly insolvent. Its only assets of substance are claims advanced by it in U.S. lawsuits. The petition is opposed by PCFL itself, its shareholders, and seven companies in the Parmalat Group (Parmalat Finance Corporation BV, Parmalat Netherlands BV, Olex SA, Parmalat Soparfi, SA, Parmalat Participacoes do Brasil Ltda, Parmalat SpA, and Parmalat Holdings Limited (collectively, "the opposing parties"). One creditor outside the

1 Parmalat Group also opposes it. The opposing parties say that Food and Dairy have not
2 demonstrated that they are creditors, that the existence of the alleged debt is disputed on
3 substantial grounds, and that in any event the "debt" has not been shown to be a
4 liquidated amount. Food and Dairy argue that there is insufficient evidence of any debt
5 owing to the opposing parties. In addition, the parties are in disagreement over who
6 should receive the appointment as liquidators.
7
8 Food and Dairy were incorporated in the Cayman Islands as special purpose vehicles to
9 raise money by issuing loan notes ("the notes") pursuant to note purchase agreements.
10 These agreements are governed by the law of New York. Food and Dairy each issued
11 notes in the total principle amount of U.S. $150,000,000.00 million dollars in December,
12 1999. Dairy subsequently re-issued its notes in the total principle amount of
13 U.S. $156,998,265.00.
14
15 The issuance of these notes was supposedly for the purpose of injecting equity capital
16 into Parmalat's Brazilian operations. Food and Dairy acquired shares amounting to about
17 18.18% of the total share capital in a Brazilian subsidiary of the Parmalat Group for
18 U.S. $300,000,000.00 dollars.
19
20 Food and Dairy each entered into a put agreement with PCFL relating to these shares.
21 Under these agreements, PCFL agreed to purchase the shares from Food and Dairy if a
22 put event occurred. As at November 20, 2003, Food still held its portion of the shares;
23 this triggered a put event. A similar put event with respect to Dairy was triggered five

days later. Under the put agreements, PCFL was required to pay to Food and Dairy a certain option price by December 12 and December 17, 2003, respectively.

PCFL defaulted on its December obligations. It became liable to pay a base option price of U.S. $270,266,199.52 to Food and U.S. $245,999,252.10 to Dairy. On December 24, 2003, I appointed James Cleaver and Gordon MacRae ("the JPLs") as Joint Provisional Liquidators of Food and Dairy; shortly thereafter, they were appointed JPLs of PCFL as well.

The original appointments were made *ex parte*. On March 1, 2004, after a contested *inter-partes* hearing, the appointment was affirmed.

Standing of Food and Dairy

Various institutions ("the noteholders"), primarily in America, purchased the notes from Food and Dairy. To provide the noteholders with security, Food and Dairy entered into security and trust agreements with Norwest Bank Minnesota, National Association and Wells Fargo Bank Minnesota, National Association (collectively, the "security trustees"). The effect of the security documentation is complex, but can be boiled down to these elements:

1) Under New York Law, the right to receive payments from PCFL was transferred to the security trustees by Food and Dairy;

2) upon receiving such payments, the security trustees were to deposit the money into the "collection accounts";

3) money in the collection accounts had to be applied in accordance with certain priorities set out in the security agreements, after which any remaining surplus had to be paid to Food and Dairy;

4) legal title to the debts owed by PCFL remained at all times in Food and Dairy (this point was conceded during argument);

5) the security documentation expressly retained with Food and Dairy the right to demand payment from PCFL of the debts.

At the contested hearing in February, 2004, the opposing parties conceded (see Skeleton Argument, Feb. 12/04, paragraph 4.8) that Food and Dairy could have petitioned for a winding up in the capacity of trustees for the security trustees. Notwithstanding that concession, they now argue that Food and Dairy have no standing as petitioners. Having transferred away the right to receive payment to the security trustees, Food and Dairy cannot, according to the opposing parties, establish their standing as "creditors". The opposing parties emphasize that it is most unlikely that Food and Dairy will ever receive any money in the course of the liquidation. That is true. The right to receive payment is enjoyed by the security trustees.

Section 96 of the *Companies Law* (2004 Revision) requires that a winding up petition be presented by "the company, or by any one or more than one creditor or contributory of the company, or by all or any of the above parties, together or separately…" The law contains no definition of the word "creditor". What must a petitioner show to bring himself within the definition of a creditor?

First of all, it is not usually possible at the hearing of a winding up petition to determine the petitioners' status with certainty. If a winding up order is made, the final

1 determination will be made by the official liquidator or liquidators. If the petition is
2 dismissed because of a bona fide dispute on substantial grounds that the debt is owing,
3 the final determination will be made in a separate court proceeding. At this stage, these
4 practical considerations lead to the conclusion that a demonstration of standing requires
5 no more than that the alleged creditor has a "good arguable claim" to be a creditor:
6 *Re Claybridge Shipping co. SA [1997]* 1 BCLC 572 (C.A.).
7
8 By letter dated January 10, 2004, the security trustees advised the JPLs that Food and
9 Dairy have the right to collect amounts owed by PCFL and to enforce the terms of the put
10 agreements against it. Since Food and Dairy had earlier given an irrevocable instruction
11 to PCFL to make payments directly to the security trustees, the letter may amount to little
12 more than an indication of the acquiescence of the security trustees in the present course
13 of action taken by Food and Dairy.
14
15 The argument of the opposing parties, and the expert evidence on New York Law
16 underpinning it, seems to proceed from two fundamental assumptions:
17 (1) that with respect to a given debt there can only be one true "creditor"
18 with standing to bring a winding up petition; and
19
20 (2) the attribute of overriding importance in identifying this one true creditor is
21 the right to receive payment.
22
23
24 I do not think either assumption is correct. The meaning to be given to the word
25 "creditor" in the *Companies Law* of the Cayman Islands is, of course, a question of
26 domestic law to be decided by this court. In *Re Claybridge Shipping Co.*, supra Lord
27 Denning, MR said (at 574 I):

1 > "it seems to me that a person is a "creditor" so long as he has a good arguable
2 > case that a debt of sufficient amount is owing to him."
3

4 Food and Dairy have retained legal title to the debts. The debts are "owing" to them.
5 They have retained, by express agreement with the security trustees, the right to demand
6 payment of the debt. Food and Diary have a right to receive any surplus remaining in the
7 collection accounts (although it is entirely unlikely there will be any).
8

9 In *Bell Group Finance (PTY) Ltd. v. Bell Group (U.K.) Holdings Ltd. [1996]* BCC 505
10 (Ch. D.), the petitioner had given to a third party a debenture creating a first floating
11 charge upon its undertaking and property. The court assumed that the floating charge had
12 crystallized and that the entire petition debt was subject to it. As a consequence, the
13 petitioner retained legal title to the petition debts but there had been an assignment in
14 equity of the beneficial interest in them to the third party.
15

16 On these assumptions, the court found that the petition "was presented by a petitioner
17 who was at that date a creditor of the company." In other words, legal title without the
18 beneficial interest is nonetheless sufficient to establish standing to request a winding up.
19 Although the applicable English legislation grants standing also to contingent and
20 prospective creditors, the court in *Bell* did not rely upon such a characterization – the
21 finding was that the petitioner was a "creditor". I am satisfied that this represents the law
22 of the Cayman Islands and that Food and Dairy, having retained legal title and the right to
23 demand payment because of their entitlement to surpluses, are creditors within the
24 meaning of the *Companies Law.*

Mr. Moss sought to make a clear distinction between what he termed "technical" standing and "substantial" standing; he argued that while Food and Dairy may have technical standing (this was not conceded), they lack substantial standing because there is no prospect that any portion of the debt will be paid to them.

This argument is hard to reconcile with the concession that Food and Dairy would have standing to sue as trustees for the security trustees. The distinction is said to be derived from the judgment of the Privy Council in *Deloitte and Touche A.G. v. Johnson et al [1999]* 1 WLR 1605. Their Lordships were concerned with a challenge to liquidators on the ground that they had a conflict of interest. The plaintiff, whose standing was challenged, sought to have the liquidators removed or (alternatively) to restrain them from continuing certain proceedings against it. The court concluded that the plaintiff was not a "proper person" to make this application as it had no "sufficient interest" in the outcome of the liquidation. It was a "stranger to the liquidation" with interests adverse to it and adverse to the interests to the general body of creditors. At page 1612, the court said:

> "the Plaintiff does not allege that the liquidators have an interest which conflicts with any duty owed to it. It does not plead any such duty. It alleges that the liquidators have an interest which conflicts with their duty to the company and its creditors. If such a conflict exists, it is for the creditors alone to decide what if anything to do about it."

The application failed because the plaintiff was not a creditor; its interests were entirely separate from, and to some extent opposed to, the interests of the general body of creditors. I do not think anything can be extracted from this decision which bears upon

1 the issue before me. Food and Dairy's retention of legal title, their right to demand
2 payment, and their residual right to a surplus amount to "a legitimate interest in the relief
3 sought" and a "sufficient interest" to make the application (see page 1611).
4
5 On February 3, 2006, the opposing parties gave notice for the first time that they
6 considered the petition debts to be disputed on substantial grounds. Ordinarily, if the
7 court finds there are reasons of substance to doubt the existence of the debt, the petition
8 will be dismissed as an abuse of process. The remedy is discretionary, not automatic. It
9 derives from a rule of practice, not a rule of law: see *Alipour v. Ary [1997]* 1 WLR 534
10 (CA).
11
12 This proceeding was commenced in December, 2003. No mention of the dispute on
13 substantial grounds was made during an extended hearing in February, 2004.
14 When the existence of a bona fide dispute on substantial grounds is alleged for the first
15 time over two years after the court is asked to wind up a company, as has occurred here,
16 the court will naturally bring a degree of scepticism to its examination of the issue.
17
18 The opposing parties have not chosen to adduce evidence from which I might infer that
19 the petition debts are unenforceable. Their assertion is based upon isolated passages in
20 two complaints (i.e., statements of claim) filed by the JPLs in U.S. litigation. On
21 December 9, 2005 the JPLs caused PCFL to sue Grant Thornton International and others
22 in Illinois for negligence misrepresentation, aiding and abetting breach of fiduciary duty,
23 and accounting malpractice and negligence. Grant Thornton were the PCFL auditors. At

1 paragraph 106 (and elsewhere) the Complaint alleges that PCFL "never received any
2 value in exchange for" the put agreements.
3
4 The JPLs also caused PCFL to sue Bank of America and others in North Carolina (the
5 action has now been transferred to New York) for breach of fiduciary duty, civil
6 conspiracy and unjust enrichment. The same allegation is made in this Complaint at
7 paragraph 106 (and elsewhere). The opposing parties simply assert that these admissions
8 by the JPLs demonstrate that the petition debts are unenforceable and Food and Dairy
9 cannot therefore be creditors.
10
11 Each of the complaints is a long and complex document. Overall, they seek to portray
12 PCFL as an innocent victim, utilized by others as a vehicle for fraud. No clear basis can
13 be found in either complaint for inferring that PCFL should have attributed to it any
14 knowledge of the fraudulent activity. In any event, that is a question of fact, proof of
15 which would require much more evidence than I have before me. Moreover, the
16 assertion that PCFL received no value for entering into the put agreements may not
17 succeed at trial in the U.S. It is in this situation that I am asked to leave Food and Dairy
18 to their ordinary remedies and dismiss their application as an abuse of process.
19
20 The question of how far a court will enquire into the allegation of a bona fide dispute on
21 substantial grounds is always a matter of discretion: *Brinds Limited & Ors. v. Offshore*
22 *Oil N.L. & Ors (1986)* 2 BCC 98916 at 9892.1 (PC). PCFL is hopelessly insolvent. The
23 circumstances surrounding its downfall need continuing investigation, and that is a free

1 standing ground for making a winding up order: *Re Gordon & Breach Ltd. [1995]* 2
2 BCLC 189, AT 199; *In re Pantmaenog Timber Co. Ltd. [2004]* 1 AC 158 at para. 64;
3 *Bell Group Finance*, supra. I am not prepared to dismiss this petition on the basis of an
4 alleged dispute on substantial grounds advanced for the first time more than two years
5 after the filing of the petition and supported solely by assertions made in U.S. pleadings.
6
7 The final attack on the standing of the petitioners is an assertion that the claim is for an
8 unliquidated amount; if true, this would mean Food and Dairy cannot be creditors:
9 *In Re Pen-y-Van Colliery Company (1877)* 6 Ch. D. 477.
10
11 The base option prices are clearly liquidated amounts, have been calculated, and are in
12 evidence. Where part of an amount claimed is a liquidated amount and part is not, the
13 claimant is a creditor for the liquidated portion. In any event, I infer from the evidence
14 that the remaining amounts claimed to be owing are susceptible to calculation and,
15 therefore, liquidated sums. There is no merit in this ground of objection.
16
17 Standing of the Opposing Parties
18
19 The opposing parties are members of the Parmalat Group. As a result of a reorganisation
20 in Italy ("the Italian Composition"), the claims of some of these companies have been
21 transferred to a new entity called Parmalat SpA ("New Parmalat"). Dr. Enrico Bondi, the
22 architect of the restructuring is now the Chief Executive Officer of New Parmalat. He is
23 also a director of PCFL and says he acts on its behalf and on behalf of its shareholders.

1 Dr. Bondi has agreed in affidavit evidence to cause New Parmalat to file its own notice of

2 objection in the liquidation.

3

4 The evidence of indebtedness by PCFL to New Parmalat is and has always been

5 problematic because of questions surrounding the accuracy of the books and records of

6 the Parmalat Group before its collapse. In his first affidavit, Dr. Bondi says:

7 "In this regard, during the investigations recently carried out
8 by the investigating Italian magistrates, it was assessed that
9 the Company has an inter-company receivable of nearly
10 Euro 7.716 billions due to it from Bonlat Financing Corporation
11 ("Bonlat"), which is a wholly owned subsidiary of the Company,
12 out of total receivables of Euro 7.764 billions. The Company
13 also owes nearly Euro 5.2 billions to other companies of the
14 Group, which appears to constitute at least 90% of its liabilities.
15 This includes a debt of approximately 2 billion Euro, but possibly
16 as much as 3 billion Euro, owed to Parmalat BV which makes
17 the Application jointly with the Company. As stated above
18 this would appear to make Parmalat BV the single largest creditor
19 of the Company and possibly the majority creditor of the Company
20 by value."
21

22 In his second affidavit, he says:

23 "According to the unaudited balance sheet as at 30 September, 2003, the
24 Company owes US $3,182m to Parmalat Finance Corporation B.V., US
25 $523m to Olex S.A. and US $274m to Parmalat Netherland B.V."
26

27 In his fifth affidavit, he says this:

28 "The unaudited balance sheet as of 30 September 2003 (see page 6)
29 discloses total liabilities (excluding equity) of US $5,853 million. The
30 creditors supporting my position represent approximately 80% of that
31 total.
32

33 The figures used by the JPLs in their second report are taken from the
34 Company's nominal ledger as at 30 September 2003 and these figures

> are somewhat lower than those in the unaudited balance sheet of 30 September 2003. The total owed to the creditors listed in paragraph 7 above according to the nominal ledger totals US $3,870,155,629. This represents 78% of the total claims against the Company as per the nominal ledger.
>
> Consequently, the vast majority of the Company's creditors support the appointment of Mr. Johnson and Mr. Smith. In my view, there is no reason not to give effect to the choice of these creditors. I accept that the final creditor position will not be known until all claims are adjudicated. At present, however, there is no real alternative to using the Company's books and records. I note in this regard that the JPLs have, according to their third court report, submitted claims against other Parmalat entities all over the world based on the books and records of the Company."

To accept, as I do, that there is doubt about the nature and extent of the debts owed by PCFL by other Parmalat entities is a far cry from concluding that nothing is owing at all. I am satisfied from the evidence quoted above that the opposing parties have a good arguable case that they are creditors. The JPLs have accepted as much in their various reports to the court. Accordingly, the opposing parties have standing.

<u>Identity of the Official Liquidators</u>

Food and Dairy propose that Mssrs. Cleaver and MacRae, the JPLs, continue in office as Joint Official Liquidators of PCFL. Their position is supported by the following creditors:

1) Teachers' Insurance and Annuity Association of America, a creditor holding US $86 million dollars of 6.625% guaranteed notes due in 2008 and issued by PCFL;

2) Cerberus Partners LP, a creditor holding US $30 million dollars of 8.80 % senior notes due in 2014 and issued by PCFL;

3) HSBC Private Bank (Suisse) SA, a creditor in the sum of

US $3,075,000.00;

4) Bank of America NA,, a creditor in the amount of US $258 million dollars;

5) Bear Stearns & Co. Inc., a creditor in the amount of US $28,474,689.00;

6) Blue Ridge Investments LLC, a creditor in the amount of US $40,000,000.00;

7) Bank of America Securities LLC, a creditor in the amount of US $10,000,000.00 dollars.

Only one of the opposing parties is entirely independent of the Parmalat Group: Cargill Financial Markets PLC is a creditor of PCFL in the amount of US $52,362,000.00 dollars. One Parmalat Group entity has a degree of independent ownership and one outside director. The opposing parties suggest that Mr. Phillip Stenger, an American Attorney, and Mr. Geoffrey Varga, a Cayman Islands accountant, be appointed JOLs.

The creditors supporting the appointment of Mssrs. Cleaver and MacRae claim debts in a total amount which is close to US $1 billion. The best evidence currently available from the books and records of the Parmalat Group suggests that about 78% of PCFL's total debt is owed to related entities in that group. That represents a majority of the creditors by value, but is it a majority whose views should carry the day? I repeat what I said in my earlier judgment in *Re Parmalat Capital Finance Limited 2004 – 05* CILR 22 at page 31:

> "The views of creditors who are also shareholders or connected to the former management of the company are entitled to less weight: *Allied Inv. Fund Ltd. v. Johnson (1) (1999)* CILR at 262). Brightman, J. put it this way in *In re Southard & Co. Ltd. (8) ([1979]* 1 W.L.R. at 552):

> 'The petition is presented and supported only by creditors who belong to the same group of companies as the company in liquidation. Their wishes do not carry with me a weight commensurate with the size of the alleged indebtedness. The company is a subsidiary of the petitioning creditor. The petitioning creditor is prima facie morally responsible for the insolvency and large indebtedness of the company, unless and until the contrary is shown. The supporting creditor is a member of the same group. The insolvency of the company and its considerable indebtedness could be the result of mismanagement or lack of control by its parent company, which is the petitioning creditor. Certainly, in the absence of evidence to the contrary, I must assume that the petitioning creditor had it in its power to control the activities of the company which is now bankrupt. I therefore take the view that the size of the indebtedness of the company to the petitioning creditor … all of which have operated under the same aegis, ought not to carry decisive weight.'

> Also see *Re Falcon R.J. Devs. Ltd.* (5) and *Re Lummus Agricultural Services Ltd.* (7). There are a number of other instances in the authorities of the court exercising its discretion on an issue in a way that is contrary to the wishes of the majority of the creditors."

In any event, compliance with the wishes of a majority of the creditors is not automatic; their views will be given weight but must be considered along with other factors militating for or against a proposed appointment.

Mssrs. Cleaver and MacRae have now had some 2½ years to become familiar with the intricacies of PCFL. Mssrs. Stenger and Varga would necessarily have to repeat a fair bit of the work already done by the present JPLs. This consideration is present at the hearing of most disputes about the identity of official liquidators, and will ordinarily incline the court to confirm the present incumbents in their roles. Absent clear and cogent reasons

1 for doing otherwise, it is only sensible to appoint as JOLs those who have already been
2 installed as JPLs for a substantial period of time.
3
4 The first objection of the opposing parties is that Dr. Bondi and the accounting firm
5 retained by him in Italy have been unable to establish a cooperative working atmosphere
6 with Mssrs. Cleaver and MacRae. Dr. Bondi says he is unable to work with them and
7 would prefer the appointment of Mssrs. Stenger and Varga, with whom he will be able to
8 work. Dr. Bondi has also said he will not cooperate with Mssrs. Cleaver and MacRae.
9 He will not provide funding for a liquidation conducted by them. He has promised to
10 provide funding if his own nominees, Mssrs. Stenger and Varga, are appointed. Mssrs.
11 Cleaver and MacRae have obtained funding from another source.
12
13 I am not able to conclude from the conflicting evidence and arguments before me who is
14 to blame for the impasse. Dr. Bondi appears to have taken a decision, relatively early in
15 the liquidation, that he would not cooperate with Mssrs. Cleaver and MacRae as a matter
16 of principle. The hardening of his position may have been contributed to by a lack, or
17 apparent lack, of cooperation on the part of the JPLs. While this complaint may provide
18 a solid basis for my giving directions to ensure disclosure of relevant documentation to
19 Dr. Bondi and notice of important steps taken in the liquidation, it does not satisfy me
20 that new liquidators are needed.
21
22 A second objection to the appointment of Mssrs. Cleaver and MacRae has to do with
23 conflicts of interest. As liquidators of Food and Dairy, they will likely need (if appointed

1 JOLs of PCFL) to adopt some mechanism to avoid a conflict of interest when
2 adjudicating upon Food and Dairy's debt claims. It is not unusual to have the same
3 people acting as liquidators of related entities; the resulting potential for conflicts of
4 interest must be managed carefully but is not usually considered a ground for incurring
5 the sizable additional expense of separate appointments: see *In Re International Credit*
6 *and Investment Company (Overseas) Limited 1992-93* CILR 83.
7
8 The opposing creditors also point to a potential conflict of interest arising from a certain
9 Note Purchase Agreement entered into between PCFL and Food at a time when the JPLs
10 controlled the affairs of both companies. The PCFL books show that it owned a
11 US $30 million dollar senior secured note payable by Food but the original note could not
12 be located. Food agreed to issue a replacement note in return for an agreement by PCFL
13 to pay Food 25% of the sale proceeds and to indemnify Food for the cost of an earlier
14 application in this proceeding. The note was then sold to an independent third party for
15 U.S. $4,350,000.00. The opposing creditors say this transaction itself requires
16 investigation.
17
18 I asked during argument how this obvious conflict of interest had been managed. Mr.
19 Crystal, Q.C., said that he gave detailed and considered advice to the JPLs on the subject.
20 They concluded it was in the best interests of the general body of creditors to proceed
21 with the note purchase and acted on the advice. I consider that an adequate response to
22 the situation in which the JPLs found themselves. There is no need for an investigation.
23

1 Finally, the opposing parties say that there would be a certain cost saving if Mssrs.
2 Stenger and Varga are now installed as JPLs. The law firm of Quinn Emanuel is
3 representing other Parmalat entities in U.S. litigation. The proposal is that Mssrs.
4 Stenger and Varga would terminate the existing retainer between the JPLs and their own
5 U.S. law firm and transfer the carriage of PCFL's U.S. lawsuits to Quinn Emanuel.
6 Considerable argument before me was devoted to the question of whether Quinn
7 Emanuel would have a conflict of interest. Certainly, the U.S. pleadings filed by it on
8 behalf of other Parmalat entities would appear to be in conflict with aspects of the claims
9 now advanced by PCFL. Apparently, Quinn Emanuel itself has concluded that it would
10 not have a conflict.
11
12 I am prepared to accept there would be a significant saving in legal fees if one law firm
13 were to handle all the Parmalat U.S. claims. On the other hand, there would be some
14 additional cost in now installing Mssrs. Stenger and Varga to replace the present JPLs.
15 Assuming that the saving derived from consolidating the claims in one law firm would
16 exceed the additional expense of bringing in new liquidators, I am nevertheless of the
17 view that this provides only weak support for the position of the opposing parties. Cost
18 saving will always be in the interest of the general body of creditors but the amount of the
19 prospective saving must be weighed against the magnitude of the debt claims. On a
20 relative basis, the saving here would be very small.
21
22 In any event, there are other considerations. A change of law firms would cause delay. A
23 change in liquidators would also cause delay. A large majority of the creditors who are

1 independent of the Parmalat Group prefer the appointment of the present incumbents. I

2 have come to the conclusion that this is the appropriate course.

3

4 I order the appointment of Mssrs. Cleaver and MacRae as Joint Official Liquidators of

5

6 PCFL. The company is insolvent and the affairs of the company require investigation in

7 the Cayman Islands. I order that PCFL be wound up.

8

9 Dated this 12th day of May, 2006

10

11 Henderson, J.

12 Henderson, J.
13 Judge of the Grand Court