

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 278/09

IN THE MATTER OF SECTIONS 92 AND 104 OF THE COMPANIES (AMENDMENT) LAW 2007

AND IN THE MATTER OF FOUNDING PARTNERS GLOBAL FUND, INC

PETITION

TO: The Grand Court of the Cayman Islands

THE HUMBLE PETITION of Christie Pitts Ltd of Arawak Chambers, Sea Meadow House, PO Box 173, Blackburne Highway, Road Town, Tortola, British Virgin Islands, (the "Petitioner") shows that:

Background

1. Founding Partners Global Fund Inc (the "Fund") was incorporated on 5 August 1997 as an exempted company organized under the laws of the Cayman Islands.
2. The registered office of the Fund is situated at Ugland House, PO Box 309, South Church Street, George Town, Grand Cayman, Cayman Islands.
3. The Fund has issued:
 - 3.1.1 153.057 Class A shares
 - 3.1.2 76,936.042 Class B shares
 - 3.1.3 6,240.727 Class E share.
4. The Fund invests all of its assets in shares of Founding Partners Global Fund Ltd (the "Master Fund"), a Cayman Islands exempted company. The object for which the Fund was established is (through its investment in the Master Fund) to carry on the business of a private investment fund for the benefit of non US persons.

The Petitioner

5. The Petitioner is an investor and shareholder in the Fund and has been since 1 May 2002. The Petitioner holds 2,120.856 Class B shares.

The Fund

6. William Gunlicks ("Gunlicks") and Gordon Howard ("Howard") act as directors of the Fund. The Fund's investment manager is Founding Partners Capital Management Co,

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a corporation organized under the laws of the State of Florida ("Capital Management").

The Fund's Investment Manager and Administrator

7. The Fund's investment management is undertaken by Capital Management. Gunlicks is the President and Chief Executive Officer and the sole shareholder of the investment manager.
8. The Administrator of the Fund is Grosvenor Fund Administration Ltd.

The Master Fund

9. Gunlicks and Howard act as directors. The Master Fund's investment manager is Capital Management.

The Investment Manager and Administrator

10. The Master Fund's investment management is undertaken by Capital Management.
11. The Administrator of the Master Fund is Grosvenor Fund Administration Ltd.

Redemption of shares in the Fund

12. The Fund is required by its Confidential Offering Memorandum dated August 1997 ("Offering Memorandum") to redeem participating shares at the redemption price. The redemption price is calculated as the net asset value per share of the relevant class of shares at the redemption date which, unless otherwise determined by the Board, is the last business day of each calendar quarter.
13. Written notice of the redemption must be received 60 days prior to the applicable redemption date.
14. Pursuant to Article 36(6) of the Articles of Association of the Fund, the Fund may declare a temporary suspension of redemptions in order to effect the liquidation of the Fund's assets necessary to effect redemptions.
15. On 31 December 2008, the Fund temporarily suspended redemptions. A redemption request was filed by the Petitioner in January 2009.

Investment Strategy of the Fund

16. The Petitioner's investment in the Fund is governed by the Offering Memorandum.
17. The Fund's initial investment objective as set out in the Offering Memorandum, was to achieve above average to superior rates of return in the long term while preserving capital and its purchasing power in the short term.
18. The Fund proposed to accomplish the objective by investing all of its assets in the shares of the Master Fund. The Fund has the same investment objective as the Master Fund. Therefore, the Fund's investment experience corresponds directly with the Master Fund's investment experience.
19. Attached to the Offering Memorandum was the Confidential Offering Memorandum of the Master Fund dated August 1997 (the "Master Fund Memorandum".) The Offering Memorandum states that it is "*supplemented by and should be read in conjunction with the Master Fund Memorandum*".
20. The Master Fund Memorandum envisaged allocating the Master Fund's assets primarily amongst eight to fifteen US and non US investment funds ("Portfolio Funds") believed to have superior investment histories and/or investment potential. The Portfolio Funds were to be managed by unaffiliated experienced portfolio managers ("Portfolio Managers").
21. The Master Fund also made provision whereby it may invest its assets directly with the Portfolio Managers, granting them discretionary trading authority pursuant to investment advisory agreements.
22. By utilizing a "*multi-style, multi manager diversification*" philosophy of investment, the assets of the Master Fund would be invested in Portfolio Funds or pursuant to investment advisory agreements with different Portfolio Managers, resulting in a diversified portfolio of securities with overall volatility lower than the markets to which the Master Fund was exposed.
23. Also attached to the Offering Memorandum was a Master Fund Supplementary Memorandum dated December 2000 (the "Master Fund Supplementary Memorandum") which replaced the Master Fund Memorandum. The Master Fund Supplementary Memorandum altered the investment strategy in respect of the Master Fund's Class B shares, seeking to accomplish the investment objective through the implementation of a "*stable value investment strategy*" that had no correlation to the equity and bond markets.

24. The Master Fund proposed to enter into a participation agreement ("Participation Agreement") with Founding Partners Multi-Strategy Fund L.P., which subsequently has changed its name to Founding Partners Stable Value Fund L.P. ("Stable Value"). Stable Value is the Limited Partner to Capital Management which acts as General Partner.
25. Pursuant to the Participation Agreement, Stable Value would offer from time to time to the Master Fund one or more participations comprising an undivided interest in one or more loans made by Stable Value to Sun Capital Healthcare, Inc ("Sun Capital"). The loans between Stable Value and Sun Capital were to be governed by a Credit Agreement (the "Credit Agreement").
26. Pursuant to the Master Fund Supplementary Memorandum, it was averred that pursuant to the Credit Agreement Sun Capital agreed to use *"the proceeds of the Loans to finance [the] purchase of receivables arising out of the delivery of medical, surgical, diagnostic or other health care related goods or service."* Such receivables being referred to collectively as "Health Care Receivables".
27. The Master Fund Supplementary Memorandum provided that "Eligible Accounts" were defined in the Credit Agreement as *"Purchased Receivables that satisfy certain criteria, including that fewer than 120 days have passed since the date upon which the applicable services were provided to the applicable patient"*. Accordingly, it was represented in the Master Fund Supplementary Memorandum that the proceeds of loans in which the Fund would participate pursuant to the Participation Agreement would only be used to finance the purchase of receivables with a collection time of less than 120 days ("120 day Receivables").
28. The Master Fund Supplementary Memorandum sets out at page 4 a flow chart illustration which demonstrates the investment model. The flow chart represents, inter alia, that:
 - (i) Health care providers such as hospitals, nursing homes and physicians provide medical services to patients;
 - (ii) Health care providers submit claims to third party payors such as insurance companies, Blue Cross / Blue Shield plans such as Medicare and Medicaid, for payment of such medical services;
 - (iii) Lender makes loans to Borrower, Sun Capital, secured by Borrower's rights in health care receivables;
 - (iv) Borrower purchases health care receivables from healthcare provider.

29. According to an SEC Complaint (as set out below) it is alleged that as of December 2008, 84% of the Master Fund's portfolio was invested through Stable Value.

Recent Events

Complaint of Securities and Exchange Commission ("SEC")

30. On 20 April 2009, the SEC filed a complaint in the US District Court for injunctive relief freezing the assets of the Master Fund and appointing a Receiver.
31. The Complaint names Capital Management and Gunlicks as defendants (together the "Defendants"). The assets of the Defendants have been frozen and a Receiver appointed.
32. The Complaint names Sun Capital Inc, Sun Capital, Stable Value, Founding Partners Stable Value II LP ("Stable Value II), the Master Fund and Founding Partners Hybrid Value Fund LP ("Hybrid") as relief defendants. No Freezing Order or Receiver is in place with respect to Sun Capital Inc or Sun Capital.
33. Stable Value II and Hybrid are limited liability Delaware partnerships of which Capital Management is the General Partner. Stable Value II's portfolio was entirely invested through Stable Value as of December 2008. Approximately 21% of Hybrid was invested through Stable Value.
34. The Receiver initially appointed has been replaced due to a conflict of interest.
35. The SEC has sought to restrain the Defendants from committing fraud in violation of s.17(a)(1)(2)(3) of the Securities Act, fraud in violation of s.10(b) of the Exchange Act and fraud in violation of s.206(1), 206(2) and 206(4) of the Advisors Act. The SEC also seeks to preserve approximately US\$550 million of loans made to Sun Capital by Stable Value.

The Allegations

36. The SEC allege that Stable Value has loaned US\$550 million to Sun Capital, but that only 32% of these loans have been invested in 120 day (or 150 day) Receivables. The US\$550 million loan to Sun Capital represents 99% of Stable Value's portfolio.
37. In contravention of the terms of the Master Fund Supplementary Memorandum, it is alleged that in December 2004, the Defendants caused or permitted Stable Value to advance monies for the purchase of workers-compensation receivables. The

receivables carry greater risk because they are based on un-adjudicated workers compensation. The average collection time for workers compensation receivables is 1,065 days.

38. It is alleged that by February 2009 Sun Capital held approximately US\$53 million worth of workers-compensation receivables.
39. At no point did the Master Fund Supplementary Memorandum allow for investment in workers-compensation receivables. Any such investment breached the investment strategy of the Master Fund as set out in the Master Fund Supplementary Memorandum and in turn the investment strategy of the Fund.
40. It is further alleged that the Defendants permitted Stable Value to advance monies for the purchase of a healthcare receivable called "Disproportionate Share" receivables, commonly known as DSH ("DSH Receivables").
41. DSH Receivables are a Medicare receivable which the US Government pays in two parts to healthcare providers in poor areas. The first payment is made at the normal rate within the required collection period. The second is paid in excess of the normal rate within two years, provided the healthcare provider is still operating. The average collection time for a DSH Receivable is 550 days.
42. It is alleged that by February 2009 Sun Capital held approximately US\$158 million worth of DSH receivables.
43. At no point did the Master Fund Supplementary Memorandum allow for investment in DSH Receivables. Any such investment breached the investment strategy of the Fund as set out in the Supplementary Memorandum and in turn the investment strategy of the Fund.
44. In contravention of the terms of the Master Fund Supplementary Memorandum, it is alleged that the Defendants caused or permitted Stable Value to advance monies to provide working capital loans to the hospitals from which the DSH Receivables had been purchased and hospitals which were owned or affiliated to Sun Capital.
45. It is alleged that by February 2009 Sun Capital had approximately US\$63 million in such loans, US\$24 million of which was advanced after Stable Value had suspended redemptions.
46. At no point did the Master Fund Supplementary Memorandum allow for the investment in working capital loans to hospitals. Any such investment breached the

investment strategy of the Fund as set out in the Master Fund Supplementary Memorandum and in turn the investment strategy of the Fund.

47. In contravention of the terms of the Master Fund Supplementary Memorandum, it is alleged that the Defendants caused or permitted Stable Value to advance US\$450,000 as a loan to Sun Capital's CFO for the purchase of a house.
48. At no point did the Master Fund Supplementary Memorandum allow for investment in loans to officers of Sun Capital for the purchase of residential property. Any such investment breached the investment strategy of the Fund as set out in the Master Fund Supplementary Memorandum and in turn the investment strategy of the Fund.
49. In addition, the SEC complaint alleges that:
 - (i) the Defendants failed to disclose that Sun Capital invested in workers-compensation or DSH receivables;
 - (ii) the Defendants failed to disclose that as of January 2008 the total amount of receivables was less than the balance of the loans to Sun Capital;
 - (iii) the Defendants failed to disclose that since early November 2008 monies had been used to make working capital advances to protect DSH Receivables; and
 - (iv) the Defendants failed to disclose that in December 2007 the Commission entered an order against them finding that Capital Management caused several of its funds to engage in transactions inconsistent with their offering memorandum.
50. The SEC allege in a later filing that Sun Capital have invested US\$12 million of loans in commercial receivables, US\$333 million in Healthcare receivables, US\$53 million in workers-compensation receivables, US\$48 million in real estate and US\$120 million directly in hospitals owned by Sun Capital or affiliated to it.
51. On 5 May 2009, Gunlicks filed a motion to discharge the injunction. The application was rejected by the Court on 7 May 2009. The US District Court ruled that *"the SEC has established a prima facie case ie: has presented sufficient evidence to withstand a directed verdict and the defendant has not identified material which significantly undermines the SEC's likelihood of success on the merits."*

Consequences of recent events

52. In Autumn 2008, Stable Value received US\$382 million in redemption requests. Stable Value was unable to meet these requests and suspended redemptions.
53. As a result of the suspension, Stable Value alerted Sun Capital on 27 January 2009, that it was unable to provide further borrowing. Sun Capital has ceased making interest payments on the outstanding loans.
54. Pursuant to a deposition given to the SEC by Howard Koslow, President of Sun Capital ("Koslow"), Sun Capital has no other sources of funding. As a result, Sun Capital no longer carry on any factoring business.
55. Sun Capital now owes US\$550 million of loans made through Stable Value (including those in which the Fund has participated) of which only 32% is invested in investments permitted by the Fund's investment strategy as set out in the Supplementary Memorandum.
56. The viability of Sun Capital is in question. Koslow admits that Stable Value's inability to extend credit "*caused grave financial harm to Sun Capital*". The former Receiver in an ultimately unsuccessful application to extend its powers to Sun Capital, alleges that Sun Capital in correspondence dated 3 February 2009 project a cash deficit of US\$53.8 million dollars from 26 January 2009 to 3 July 2009.

Response of the Defendants

57. Subsequent to the Order of 20 April 2009, attempts have been made to contact Gunlicks. Bob Hager of Founding Partners Capital (Bermuda) Ltd has made numerous attempts to contact Gunlicks without any success. These attempts cannot be further particularised as Bob Hager committed suicide on 27 May 2009.
58. On 30 May 2009 Howard, a director of the Master Fund and Fund was contacted by Gunlicks who advised that he (Gunlicks) was unable to discuss the Complaint or the affairs of the Master Fund or the Fund.

Grounds for winding up

Breach of legal bargain

59. As a result of the matters set out above, the legal bargain between the Fund and its investors has been breached. In particular, the Fund has breached the investment

strategy set out in the Supplementary Memorandum and invested in unauthorized investments.

Mismanagement or Misconduct on the part of the Defendants

60. As a result of the ruling of the US District Court there is a prima facie case that the Defendants have been involved in what is considered in the United States to be fraudulent activity.
61. It is averred that prima facie, there may have been misconduct on the part of the Defendants who must, or should have known, at all material times, the destination of the Fund's assets and the use to which they would be put.
62. In such circumstance the Defendants should no longer be allowed to manage the Fund's affairs. Further, an investigation is required into the Defendants' conduct and the consequences for the Fund and its investment.

Deadlock in the Management of the Fund

63. It is averred that the Fund's board of directors is almost certainly deadlocked. There has been no communication between the two members of the board other than a single communication from Gunlicks asserting that he is unable to discuss the Fund or the Master Fund. Although no steps have been taken to call a board meeting, it is a reasonable assumption to make that the board will be unable to reach a consensus.

Loss of Substratum

64. The investment strategy of the Fund, as set out in the Master Fund Supplementary Memorandum is to provide loans, via Stable Value, to Sun Capital, for the purpose of investing in 120 day Receivables. Sun Capital is no longer conducting factoring business and it is no longer possible for the Fund to pursue its investment strategy.
65. For the reasons set out above, the Fund can no longer carry out the business for which it was formed and the substratum has failed.

Just and Equitable winding up

66. In the premises it is just and equitable for the Fund to be wound up.

YOUR PETITIONER THEREFORE HUMBLY PRAYS THAT

1. David Walker and Ian Stokoe of PWC Corporate Finance & Recovery (Cayman) Limited, PO Box 258, Strathvale House, George Town, Grand Cayman KY1-1104, Cayman Islands (the "Provisional Liquidators") be appointed Provisional Liquidators of the Fund.
2. The Petition shall forthwith be served on the Fund at its registered office, Ugland House, PO Box 309, George Town, Grand Cayman, Cayman Islands.
3. The Provisional Liquidators shall not be required to give security for their appointment.
4. The Provisional Liquidators are hereby authorised to take such steps as may be necessary or expedient for the protection of the Fund's assets, and for that purpose may exercise any of the powers specified in Part I and II of the Third Schedule to the Companies Law (2007 Revision) (as amended); and for the avoidance of doubt such powers may be exercised within and outside the Cayman Islands. Specifically, but without prejudice to the generality of the foregoing, the Provisional Liquidators shall have power:
 - a) to bring or defend any action, suit, prosecution or other legal proceedings, whether criminal or civil, by way of court process or arbitration in the name and on behalf of the Fund including commencing proceedings for recognition and/or ancillary relief in Bermuda.
 - b) to take possession of, collect and get in all property or assets (of whatever nature) to which the Fund is or appears to be entitled;
 - c) to do all things as may be necessary or expedient for the protection of the Fund's assets;
 - d) to do all things (including the carrying on of the business of the Fund) so as may be necessary or expedient for the beneficial realisation of the property or assets of the Fund (including power to borrow money);
 - e) to appoint attorneys, solicitors, counsel and other professional advisers both in the Cayman Islands and elsewhere to assist in the performance of their duties;
 - f) to appoint agents both in the Cayman Islands and elsewhere to do any business which they are unable to do themselves or which can more conveniently be done by an agent and power to employ and dismiss officers and employees of the Fund;

- g) to open and maintain bank accounts in the name of the Fund or themselves anywhere in the world as may be necessary for the better performance of their duties.
5. The Provisional Liquidators shall be at liberty to apply for further directions concerning their functions and the exercise or proposed exercise of their powers.
 6. The Provisional Liquidators shall within 7 business days notify all known creditors and shareholders of their appointment and there shall be no other requirement to advertise the petition.
 7. The Provisional Liquidators are directed to prepare a report about the financial condition of the Fund to this Honourable Court 14 days prior to the hearing of the Petition.
 8. No suit, action or other proceeding shall be proceeded with or commenced against the Fund except with the leave of the Court and subject to such terms as the Court may impose.
 9. No disposition of the Fund's property by or with the authority of the Provisional Liquidators in carrying out of their duties and functions and exercise of their powers under this Order shall be voided by virtue of section 99 of the Companies Law (2007 Revision).
 10. The remuneration and expenses of the Provisional Liquidators shall be paid out of the assets of the Fund.
 11. The Court will issue a request to the Supreme Court of Bermuda in the terms of the draft appended to this Order.
 12. The costs of and incidental to these applications shall be paid from the assets of the Fund as expenses within the liquidation.

YOUR PETITIONER WILL EVER PRAY ETC:

Dated the 8th day of June 2009


Mourant du Feu & Jeune

This Petition was filed by Mourant du Feu & Jeune, Attorneys-at-Law for the Petitioner, whose address for service is 2nd Floor, Harbour Centre, 42 North Church Street, PO Box 1348, Grand Cayman KY1-1108 (Ref: 2044866/DICKI/MdFJ/1976400/1)