

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 175 OF 2009



IN THE MATTER OF the Companies Law (2007 Revision)
AND IN THE MATTER OF Steel Partners II (Offshore) Ltd

AMENDED PETITION



TO: The Grand Court of the Cayman Islands

THE HUMBLE PETITION of J. P. Morgan Trust Company (Cayman) Limited, as custodian for The Global Activist Fund (the "**Petitioner**"), of (c/o Walkers SPV Ltd) Walker House, 87 Mary Street, George Town, Grand Cayman KY1-9001, Cayman Islands shows that:

The Company

- 1 Steel Partners II (Offshore) Ltd (previously known as Steel Partners Offshore Fund Ltd) (the "**Company**") is an open-ended investment company incorporated as an exempted company with limited liability under the laws of the Cayman Islands.
- 2 The registered office of the Company is situated at Morgan Stanley Fund Services (Cayman) Ltd, Cricket Square, Hutchins Drive, George Town, Grand Cayman, Cayman Islands.
- 3 The share capital of the Company is US\$50,000 divided into 5,000,000 voting, redeemable, participating common shares of US\$0.01 par value each.
- 4 Pursuant to the Company's Memorandum of Association, the objects for which the Company was established are unrestricted. Pursuant to the Company's Private Placement Memorandum ("**PPM**"), the Company's principal objects are:
 - 4.1 to act as an open-ended investment company;
 - 4.2 to engage in the primary investment objective of capital appreciation; and

- 4.3 to give non-US Persons and US Persons that are Exempt Organisations an opportunity to participate in an investment program that is substantially the same as that of Steel Partners II (Onshore) LP.

The Petitioner

- 5 On or about 3 November 2008, the Petitioner acquired 3,420.236576 Class C Series Initial shares in the Company (the "**Shares**") by way of transfer from the former custodian of The Global Activist Fund, Bear Sterns Bank plc. The Petitioner's subscription was in accordance with and subject to terms of a subscription agreement in writing dated in or about 23 October 2008 between the Company and the Petitioner.
- 6 The Petitioner holds the Shares in its capacity as custodian of The Global Activist Fund.

Background

- 7 The Petitioner subscribed for the Shares on the basis that, among other matters, pursuant to the Company's Articles of Association (the "**Articles**") and PPM:
- 7.1 the Company was open-ended, such that investors in the Company, including the Petitioner, could redeem their shares;
- 7.2 the Company would diversify its investments. In particular, the Company would not have more than 25% of its net assets invested in "Illiquid Investments and Special Situation Investments"; and
- 7.3 the Company's investment advisor, WGL Capital Corporation (the "**Investment Advisor**"), would be paid an annual management fee of 1.5% of the Company's net asset value ("**NAV**") plus a performance fee.
- 8 At all material times prior to 31 December 2008:
- 8.1 the Company invested the subscription monies which it received from investors (including the Petitioner) in its subsidiary Steel Partners II (Onshore) LP, a Delaware Limited Partnership ("**Steel Partners II (Onshore)**");

8.2 Steel Partners II (Onshore) in turn invested the subscription monies which it received from investors in its subsidiary Steel Partners II Master Fund LP, a Cayman Islands limited partnership (the "**Master Fund**"); and

8.3 the Master Fund in turn invested the subscription monies which it received from investors in its subsidiary Steel Partners II LP, a Delaware Limited Partnership ("**Steel Partners II**")

(together, the Company, Steel Partners II (Onshore), the Master Fund and Steel Partners II are referred to herein as the "**Funds**").

9 Steel Partners LLC ("**LLC**") is the investment manager to Steel Partners II (Onshore), the Master Fund and Steel Partners II but not the Company. As outlined above, WGL Capital Corporation is the Investment Advisor to the Company. Nevertheless, Mr Warren Lichtenstein is the controlling principal of LLC and the Investment Advisor.

10 As a result of the Funds' structure as described above, investors in the Company (including the Petitioner) were at all material times prior to 31 December 2008 indirectly investors in Steel Partners II, which was the ultimate investment and trading vehicle for the Funds.

11 In 2008, the Funds' NAV dropped by approximately 40%. As a result, investors submitted redemption requests to the Funds representing approximately 38% of their NAV. On 30 September 2008, the Petitioner submitted a valid request for the redemption of all its Shares as at the 31 December 2008 redemption date.

12 On 9 December 2008, LLC wrote to "all [its] Partners" and stated, among other matters, "the General Partner has taken the extraordinary step of temporarily suspending all withdrawal rights as it deems the pending withdrawals to be substantially detrimental to the Fund at this time". On the same day, an unsigned letter from the Company's Board of Directors (the "**Board**") was sent to the Company's shareholders noting that they had temporarily suspended redemptions from the Company.

13 On 31 December 2008, LLC wrote again to "all [its] Partners" outlining a plan which, if finally implemented, will fundamentally alter the structure of the Funds as described above in a manner which benefits Mr Lichtenstein's affiliates (including LLC) to the detriment of the

Company and its investors (the "**Original Plan**"). Although the Petitioner received the 31 December 2008 letter, neither the Petitioner nor the Company are "partners" of LLC.

14 There were at least four stages to the Original Plan, some of which had already been completed:

14.1 First, the Master Fund's shares in Steel Partners II – which is the ultimate investment and trading vehicle – have been (or were proposed to be) exchanged for shares in WebFinancial Corporation (a virtual shell company incorporated in Delaware), such that Steel Partners II has become a subsidiary of WebFinancial Corporation.

14.2 Second, WebFinancial Corporation has been (or was proposed to be) converted to a publicly traded Delaware limited partnership known as WebFinancial LP.

14.3 Third, WebFinancial LP would have entered into (or alternatively, has entered into) a new management agreement pursuant to which the annual management fee would have increased from 1.5% per annum to 2% per annum.

14.4 Fourth, all investors in the "Steel Partners II feeder funds" (including, presumably, the Company) would have their interests in the Funds "exchanged" with shares or interests in WebFinancial LP ("**WebFinancial**").

15 By a letter to investors dated 12 March 2009, the Company announced a modified version of the Original Plan (the "**Revised Plan**"). Under the Revised Plan, members ~~have had~~ a choice between three options. Particularly:

15.1 Members of the Company who elected "**Option A**" ~~would~~ receive interests in WebFinancial (~~to be renamed Steel Partners Holdings L.P.~~), being an interest in a closed-ended entity which will be (~~alternatively, is presently~~) controlled and managed by (and which will pay fees to) LLC, and which will own (~~alternatively, now owns~~) a proportion of the assets currently held by the Master Fund.

15.2 Members of the Company who elected "**Option B-1**" ~~would~~ receive a direct distribution of certain in kind assets held by the Master Fund (the so-called "**Distributable Assets**"). The Company ~~has did~~ not disclose~~d~~ which assets held by

the Master Fund will make up the Distributable Assets. ~~However, this~~ The precise composition of the Distributable Assets was to ~~will~~ be determined by the "sole discretion" of the General Partner of the Master Fund, Steel Partners II GP LLC ("**General Partner**"), of which Mr Lichtenstein is the Managing Member.

15.3 "**Option B-2**" ~~was is~~ similar to option B-1, save that members of the Company selecting this option would receive their share of the Distributable Assets through a liquidating trust (the "**Trust**"). The Trust would be allowed to sell its assets to WebFinancial or any affiliates thereof.

15.4 All Shareholders of the Company, regardless of which option they select would receive a share of an "Initial Cash Distribution", of US\$100 million (which would be shared with investors in Steel Partners II (Onshore)). In its presentation to shareholders of 24 March 2009, LLC noted that the estimated value of Steel Partners II was approximately US\$1.031 billion. Therefore, this represents a distribution of less than 10% of the Company's net assets.

15A. On or around 19 May 2009, the Company distributed a letter and disclosure statement setting out a further revised version of the plan (the "**Further Revised Plan**"). This is the iteration of the plan which is currently proposed to be implemented by the Company. The Further Revised Plan is materially similar to the Revised Plan, with the principal difference being that Option B-2 has been removed, such that under the Further Revised Plan all members of the Company will be compulsorily redeemed, and can elect for Option A (essentially, cash and an interest in WebFinancial) or Option B (essentially, cash and a proportion of the Distributable Assets). As with the Original Plan and the Revised Plan, once the distributions are made, the Company proposes to wind up and dissolve.

15B The Company required members to make a final election between Option A and Option B Election required by 5 June 2009. Members who did not make an election were deemed to have elected Option B.

15C On or around 15 July 2009, the Master Fund and Steel Partners II implemented the Further Revised Plan, insofar as it affected them. The Company has not yet compulsorily redeemed

all its shareholders and implemented the Further Revised Plan, although it still proposes to do so.

16 The ~~catastrophic~~ consequences of the Further Revised Plan, if finally implemented (and/or not prohibited), will include that:

16.1 The Company's substratum will be gone. To give effect to the Further Revised Plan, the Company will redeem or purport to redeem all investors. When all investors are redeemed, the Company will no longer be in a position to fulfil its principal objects. The Company's expressed intention is to then dissolve.

16.2 The investors who elected "Option A":

- (a) will cease being investors in the Company, a private open-ended Cayman Islands investment fund, and will become investors in WebFinancial LP, an effectively closed-ended Delaware limited partnership. The investors in the Company will no longer be able to redeem their interests (that is, the WebFinancial Interests). ~~The Petitioner anticipates that there will be no or no substantive market for those interests.~~
- (b) will be required indirectly to pay ongoing management fees to Mr Lichtenstein's affiliates, at a rate of 1.5% per annum, payable monthly.
- (c) are told that ~~the~~ they will receive cash equal to 50% of the net proceeds from the sale or distribution of management of portfolio securities of WebFinancial will use "reasonable best efforts" to realise approximately 29% of the assets of WebFinancial, and which will return this cash will be paid in quarterly instalments until 30 April 2011, and that WebFinancial will use its "best efforts, without sacrificing value" to reach a "distribution target" of US\$300 million (reduced proportionately by the percentage of the Company's investors who chose Option B).
- (d) will see their remaining capital in the Company permanently locked-up in WebFinancial LP as the WebFinancial Interests will not be redeemable. The holders of WebFinancial Interests will be required to try to sell their interests

on the secondary market (to the extent there is one). One effect of this will be that Mr Lichtenstein's affiliates will be guaranteed a 1.5% management fee plus continued performance fees (in the form of options for equity in WebFinancial) on locked up capital for multiple years (which fees would no longer be subject to the possibility of reduction due to investor redemptions).

16.3 The investors who elected ~~either "Option B-1" or "Option B-2"~~ Option B will be given a cash distribution an in kind distribution of certain undisclosed assets held by the Company and/or the Master Fund. Investors ~~are~~ were required to make this election without knowing which of the Master Fund's assets it will receive. The Distributable Assets they do receive ~~(either directly or through the Trust)~~ will be those assets selected in the sole discretion the General Partner – an entity controlled by Mr Lichtenstein. In exercising that discretion, Mr Lichtenstein has an insurmountable conflict of interests, due to his interest in LLC, which will earn management and performance fees from WebFinancial. The Further Revised Plan does not envisage any independent oversight in this regard.

17 In short, the Further Revised Plan, if finally implemented, will bring the existence of the Company to an end. The Company is not presently functioning as, and based on its management's current proposal it will never again function as an open-ended mutual fund.~~cause fundamental and irretrievable harm to the Company to the detriment of the Company's investors, including the Petitioner, to the material benefit of Mr Lichtenstein's affiliates, including LLC.~~

18 Although the Further Revised Plan is of fundamental importance to the Company, the investors in the Company, including the Petitioner, have received no requests for input from the Board in respect of the Original Plan, the Revised Plan or the Further Revised Plan. Further, the investors in the Company, including the Petitioner, have not been given the opportunity to vote on the Further Revised Plan (and instead, are given a choice between two ~~three~~ undesirable options, one of which is not liquidation). ~~In the circumstances, t~~The Board has failed meaningful to engage with the Company's members ~~shown a complete lack of probity~~ in connection with the Original Plan, and latterly, the Revised Plan and the Further Revised Plan.

- 19 To date, to the best of the Petitioner's knowledge and belief, the Company has not purported to redeem its investors and the Petitioner remains a shareholder in the Company.
- 20 For the reasons set out above, there is no appropriate alternative to liquidation for the Company. The Company can no longer carry out the principal objects for which it was formed and the substratum of the Company has failed. Further, the Petitioner has **justifiably** lost confidence in the Board's conduct and management of the Company's affairs. It is the Company's expressed intention to wind down its affairs and dissolve. This process ought be carried out under the supervision of independent Court appointed liquidators, rather than **under the supervision of ~~by~~ Mr Lichtenstein**.
- 21 The shareholders of the Company, including the Petitioner, have a legitimate interest in ensuring that independent liquidators manage the affairs of the Company and investigate the conduct of the Company's directors and service providers, as well as the Investment Advisor, Steel Partners II (Onshore), the Master Fund and Steel Partners II in connection with the **Further** Revised Plan and generally.
- 22 In the circumstances, it is just and equitable that the Company should be wound up.

YOUR PETITIONER THEREFORE HUMBLY PRAYS AS FOLLOWS:

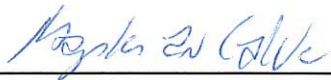
- (1) That the Company be wound up by the Court under the provisions of the Companies Law (2007 Revision).
- (2) That the Court appoint **Mr Geoffrey Varga and Mr Nicholas Matthews** as Joint Official Liquidators of the Company (the "**Liquidators**"), and that they have power to act jointly and severally.
- (3) That the Liquidators not be required to give security for their appointment.
- (4) That in addition to all their other powers, the Liquidators do have all the powers set out in Section 109 of the Companies Law (2007 Revision) and may exercise such powers without the sanction of the Court, and for the avoidance of doubt:
 - (a) the Liquidators be at liberty to appoint agents and attorneys, solicitors, barristers and other professionally qualified persons, in the Cayman Islands and elsewhere, to

assist them in the performance of their duties on such terms as they think fit and to remunerate them out of the assets of the Company as an expense of the liquidation;

- (b) all the powers bestowed upon the Liquidators may be exercised by them within and outside the Cayman Islands and all such powers may be exercised by all or any of the Liquidators.
- (5) That the Liquidators be entitled to receive remuneration for their services by reference to the time properly given by them and their staff in attending to matters arising in the winding up; and that the hourly rates and the amount of such remuneration be determined in accordance with the Law and Practice Direction number 1 of 2006.
- (6) That a meeting of the Company's shareholders be convened by the Liquidators as soon as reasonably practical and in any event within three months of the date of the winding up order, or as the Court may direct, for the purposes of proposing a resolution of shareholders for the establishment of a liquidation committee comprising of not less than three and not more than five shareholders.
- (7) That the Liquidators do report to this Court within 3 months of the hearing of this Petition, or such other period as the Court may think fit, and thereafter at such intervals as the Liquidators do think fit or as the Court shall direct.
- (8) That the costs of presenting this Petition be paid out of the assets of the Company as an expense of the Liquidation.
- (9) Such further or alternative orders and/or directions that the Court should think fit.

DATED the 8 day of April 2009

AMENDED the 4th day of September 2009



Maples and Calder

NOTE: It is intended to serve this Petition on Steel Partners II (Offshore) Ltd

This Petition is presented by Maples and Calder, attorneys for the Petitioner, whose address for service is PO Box 309, Umland House, Grand Cayman, KY1-1104, Cayman Islands. (Ref: AAG/CPL/648696/16496457)