

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

CAUSE NO: FSD0142/2010-AHJ
(Originally Cause No. 226 of 2002)

**IN THE MATTER OF THE COMPANIES LAW
AND IN THE MATTER OF CVC/OPPORTUNITY EQUITY PARTNERS, LTD**

ORDER FOR TRANSFER TO FINANCIAL SERVICES DIVISION

UPON reading the court file

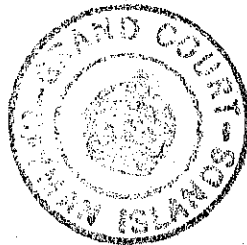
AND UPON being satisfied that the cause or matter is a financial services proceeding

IT IS ORDERED that –

- (1) The proceeding is hereby transferred to the Financial Services Division under Cause No. FSD0142/2010-AHJ
- (2) the proceeding is assigned to the Honourable Justice Henderson;
- (3) a transfer fee of CI\$4850.00 be paid by the Petitioner;
- (4) no further step may be taken in the proceeding unless and until the transfer fee has been paid in full.

Dated the 28th day of May 2010.

Filed the 1st day of June 2010.



CLERK OF COURTS

The Honourable Chief Justice of the Cayman Islands

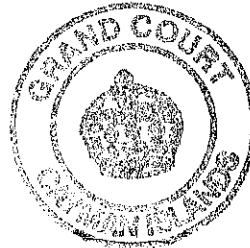
This Order was filed by the Registrar of the Financial Services Division of the Grand Court the Law Courts, George Town, Grand Cayman.

In the Matter of the S.94 of THE COMPANIES LAW (2001 Revision)

And In the Matter of CVC/Opportunity Equity Partners, Ltd

PETITION

TO: The Grand Court of the Cayman Islands



The Petition of Luis Roberto DeMarco Almeida shows that:-

1. CVC/Opportunity Equity Partners, Ltd ("the Company") was incorporated on 26th January 1996 under the Companies Law (1998 Revision) under the name of "The Brazilian Infrastructure and Privatisation Fund, Ltd." The Company's name was changed by special resolution on 15th January 1997 to "Brazilian Equity Partners, Ltd", and again by special resolution of 9th September 1997 to its present name.
2. The registered office of the Company is at the offices of Maples and Calder, Uglund House, South Church Street, P.O. Box 309, George Town, Grand Cayman, Cayman Islands, B.W.I.
3. The capital of the Company is US\$50,000 divided into 50,000 shares of nominal or par value of US\$1 each. 100 of the said shares have been issued and are fully paid up. The registered holders of the said shares are as follows:

Opportunity Invest II Inc	96
Rodrigo Bhering Andrade	1
Luis Roberto DeMarco Almeida	1
Arthur Joaquim de Carvelho	1
Robert E. Wilson, III	1

4. The objects for which the Company was established were unrestricted, but to include without limitation:
 - (a) To carry on the business of general partner of Cayman Islands limited partnerships.
 - (b) To carry on the business of an investment company and to act as promoters and entrepreneurs and to carry on business as financiers, capitalists, concessionaires, merchants, brokers, traders, dealers, agents, importers and exporters and to undertake and carry on and execute all kinds of investment, financial, commercial, mercantile, trading and other operations.

5. By a limited partnership agreement dated 30th December 1997 the Company became general partner of CVC/Opportunity Equity Partners, L.P., a Cayman Islands exempted limited partnership. Total investment in and by the limited partnership is approximately US\$600,000,000. The Company is responsible for managing the said investment. The Company is entitled on an ongoing basis to:
 - 5.1 a semi-annual Management Fee as compensation for managing the affairs of the partnership, initially equal to 2% per annum of total funds committed but now equivalent to 1% per annum of the total amount invested; and
 - 5.2 an Incentive Fee being a percentage of any increase in the value of the fund after Management Fees.

6. It was orally agreed between Opportunity Invest II Inc and the Petitioner that the Petitioner's interest in the Company would be 3.5% notwithstanding that he held only 1 share.

7. Each of the aforesaid shareholders of the Company, other than Opportunity Invest II Inc, were appointed directors of the Company on or before 30th December 1997.

8. By a Shareholders' Agreement dated 30th December 1997 the aforesaid shareholders of

the Company purported to regulate their relationships with each other and with the Company.

9. By the said agreement the said shareholders and the Company agreed, inter alia:
 - 9.1 That in certain respects the shareholders would exercise their powers in certain ways;
 - 9.2 That, subject to “Annex A” none of the shareholders apart from Opportunity Invest II Inc should directly or indirectly transfer or create or dispose of any interest (including a Security Interest) in or over any of his Ordinary Shares except to a transferee as permitted by the agreement.

10. Further by the Shareholders’ Agreement the shareholders’ rights to realise the value of their interest in the Company and to withdraw from it were governed as follows:
 - 10.1 Opportunity Invest II Inc granted to each of the other shareholders an irrevocable put option over its shares in the Company at a price and according to the payment terms and conditions to be agreed pursuant to “Annex A”.
 - 10.2 Each of the shareholders other than Opportunity Invest II Inc granted to Opportunity Invest II Inc an irrevocable call option over their respective shares in the Company at a price and according to the payment terms and conditions to be agreed pursuant to “Annex A”.

11. The Shareholders’ Agreement stated that the terms and conditions of the said put and call options were “to be agreed pursuant to Annex A”. No figures were ever inserted into “Annex A”, which appears in blank form in the Shareholders’ Agreement as executed by the parties thereto. Nor have any figures subsequently been agreed between the parties to be inserted into “Annex A”. Accordingly there is no exercise price for either the aforesaid call options or the aforesaid put options. Consequently the Petitioner cannot avail himself of the said put option and no mechanism exists to allow the Petitioner to withdraw from the Company and to realise his interest in it.

12. In the premises:
 - 12.1 The Company is and was at all material times a quasi-partnership company;
 - 12.2 There was formerly a relationship of trust and confidence which has now broken down;
 - 12.3 It is and was at all material times unjust or inequitable to exclude the Petitioner from the management of the company without making a fair offer for his shares;
 - 12.4 In particular and without prejudice to the generality of the foregoing the Petitioner will rely upon presence of Annex "A" in the Shareholders' Agreement to show that it was always understood and/or contemplated between the parties that the Petitioner would not be locked into his shareholding in the Company.

13. Differences have arisen between the Petitioner and the other shareholders/directors of the Company. The Petitioner has been excluded from management. Without prejudice to the generality of the foregoing, the Petitioner is no longer invited to meetings of the directors of the Company and no longer receives any financial information in relation thereto.

14. Since January of 1999 the Petitioner has tried to negotiate his withdrawal from the Company and the realisation of his interests therein. Without prejudice to the generality of the foregoing:
 - 14.1 The Petitioner has had numerous meetings with Opportunity Invest II Inc;
 - 14.2 On 15th January 1999 the Petitioner provided to Persio Arida of Opportunity Invest II Inc, a cash flow analysis suggesting a range of values for the Petitioner's 3.5% interest in the Company.
 - 14.3 On 26th January 1999, and 4th, 8th and 10th February 1999, the Petitioner attempted to persuade Opportunity Invest II Inc to at least suggest their own valuation of the Petitioner's interest in the Company. No such valuation was or has ever been forthcoming.

- 14.4 On 17th March 1999 the Petitioner's Brazilian attorney repeated the Petitioner's request for payment of the Petitioner's interest in the Company, or at least for a suggested value as to that interest, with no success. The Petitioner's attorney was informed that Opportunity Invest II Inc would not be willing to pay or negotiate anything, and that the process should be resolved in court.
15. By fax dated 17th June 1999 the Petitioner notified Opportunity Invest II Inc of the Petitioner's intention to Petition to wind up the Company within 14 days of 17th June 1999 on the ground that it is just and equitable that the Company should be wound up, unless the Petitioner were to receive full payment of the value of his interest in the Company. The said fax was dispatched by courier to the registered office of Opportunity Invest II Inc in the British Virgin Islands. By letter dated 29th June 1999 the Cayman Islands attorneys for Opportunity Invest II Inc and the Company wrote to say that they were authorised to confirm that Opportunity Invest II Inc would purchase the Petitioner's shareholding at an "appropriate price", without stating what that price would be.
16. On 29th July 1999 Opportunity Invest II Inc made an offer to purchase the Petitioner's shares on a liquidation basis. That offer was immediately rejected by the Petitioner. The terms of the offer were amplified by a letter dated 25th October from Opportunity Invest II Inc's attorneys to the Petitioner's attorneys. The amplified terms valued the Petitioner's interest in the company, on a liquidation basis, at US\$179,915. The offer which Opportunity Invest II Inc put forward on this basis was US\$199,159.02, purportedly to reflect an element of interest and an element of costs. The amplified terms were unacceptable to the Petitioner since they purported to value his interest in the Company on a liquidation basis.
17. The offer described in Paragraph 15 above is not a fair offer. No further or other offer has been made to purchase the Petitioner's interest in the Company. The Petitioner will rely, inter alia, upon the judgment of the Judicial Committee of the Privy Council in Privy Council Appeal No. 4 of 2001 handed down on 21st March 2002 in which their Lordships held that:

“Opportunity’s offer to purchase Mr Demarco’s interest at a valuation based on the Company’s break up or liquidation value falls far short of a fair offer and fails to remedy his complaint”

18. In the circumstances it is just and equitable that the Company should be wound up.

The Petitioner therefore prays as follows:

- (1) That CVC/Opportunity Equity Partners, Ltd may be wound up by the Court under the provisions of s.94 (d) of the Companies Law (2001 Revision);
- (2) that Jim Cleaver and Gordon MacRae be appointed Joint Provisional Liquidators of the Company.
- (3) that the Joint Provisional Liquidations shall have power:
 - (a) to take possession of, collect and get in all property or assets of whatever nature to which the Company is or appears to be entitled;
 - (b) to do all such things as may be necessary or expedient for the protection of the Company’s assets;
 - (c) to do all such things as may be necessary or expedient for the beneficial realisation of the property or assets of the Company;
 - (d) to carry on the business of the Company;
 - (e) to engage Walkers and/or other such attorneys as the Joint Provisional Liquidators think fit to assist and advise them in the performance of their duties;
 - (f) to appoint an agent to do any business which they are unable to do themselves or which can more conveniently be done by an agent;
 - (g) to employ and dismiss employees;
 - (h) to do all such other acts and things as are mentioned in s.109 of the Companies Law (2001 Second Revision);
 - (i) to do all other things incidental to the exercise of the foregoing powers.

- (4) that the remuneration of the Joint Provisional Liquidators shall be paid out of the assets of the Company on a time spent basis in accordance with their hourly charge out rates.
- (5) that the expenses of the Joint Provisional Liquidators shall be paid out of the assets of the Company in priority to all other debts of the Company.
- (6) that the Applicant and the Joint Provisional Liquidators shall have liberty to apply for such further or other directions as may be expedient.
- (7) that either of the Joint Provisional Liquidators does have power and is hereby authorised to act on behalf of both in the performance of any of their duties and powers.
- (8) that the costs of this application shall be reserved.

It is intended to serve this Petition upon the Company and upon the Registrar of Companies

NOTWITHSTANDING THE PRESENTATION OF THE PETITION HEREIN the Petitioner does not object to a Section 127 Order in standard form, namely that:

“Notwithstanding the presentation of the said petition:

- (i) Payments made into or out of the bank accounts of the Company in the ordinary course of the business of the Company; and
- (ii) Dispositions of the property of the Company made in the ordinary course of its business for proper value (with the express exception of any transfer of the assets of the Company to any successor of the Company as general partner in CVC/Opportunity Equity Partners, L.P.)

between the date of presentation of the petition and the date of judgment on the petition or further order in the meantime should not be void by virtue of the provision of s.127 of the Insolvency Act 1986 in the event of an order for the winding up of the company being made on the said petition.”

Walkers
WALKERS
Attorneys-at-law for the Petitioner

Endorsement

This Petition having been presented to the Court on the ~~28~~ day of March 2002 will be heard on a date to be fixed.

This PETITION was filed by WALKERS, P.O. Box 265GT, Walker House, George Town, Grand Cayman, Attorneys-at-Law for the Petitioner herein whose address for service is that of his said Attorneys-at-Law.