

IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION



0048

CAUSE NO FSD OF 2012

IN THE MATTER OF THE COMPANIES LAW (2011 REVISION)

AND

IN THE MATTER OF PSB LTD.



WINDING UP PETITION

TO THE GRAND COURT

The humble petition of Esso Cayman Limited ("the **Petitioner**") shows that:

Preamble

1. The Petitioner presents this petition ("**Petition**") for the winding up of PSB Ltd. ("the **Company**") which was incorporated as a resident company in the Cayman Islands on 17th August 2006, registration number 173085. The current registered office of the company is situated at Abacus Management Limited, Elizabethan Square, PO Box 2499, Grand Cayman, KY1-1104, Cayman Islands.
2. As set out hereinafter, the Company is currently indebted to the Petitioner in respect of an arbitration award made in the Islands on 24th January 2012, which debt is due and payable to the Petitioner.
3. The Company was engaged in the operation and management of a petrol service station in the Islands. The Petitioner is the freehold owner of the premises being all that parcel of land together with all of the buildings and other structures on it sometimes known as Delworth's Esso situated at 334 North Church Street, George Town Central Block 13E Parcel 16, Grand Cayman, Cayman Islands ("the **Premises**" or "**Service Station**"). By a Lease and Service Station Operation Agreement made on

3rd November 2006 between the Petitioner and the Company (“the **Lease**”), the Premises were leased to the Company as operator of the Service Station.

The Arbitration

4. The Petitioner issued a Writ against the Company dated 5th January 2011 for possession of the Premises, rent and interest. By a summons ex parte on notice dated 20th January 2011, the Company sought orders permitting it to remain in possession until trial or arbitration of the disputes, that the Petitioner continue to supply it and for a stay pending arbitration.
 5. On 28th January 2011, Mr. Justice Foster granted the Company the orders sought relating to possession of the Premises and supply of goods. By order dated 18 February 2011, Mr. Justice Foster, inter alia, stayed proceedings pending arbitration (“the **Arbitration**”), and confirmed that the mandatory injunction granted to the Company continue until further order. The Company gave up possession of the Premises and ceased its business at the Service Station on or before 31st October 2011.
 6. Mr. Nigel Meeson Q.C. was on 12th September 2011 appointed arbitrator in the Arbitration consequently initiated by the Petitioner. The Company issued a Defence and Counter-claim (the “**Counterclaim**”) on 10th October 2011 in which it made a claim for sums in aggregate of approximately CI\$3million for losses it alleged were incurred since 2006 (of which over CI\$2.5 million was in respect of “loss of opportunity” for 17 years beyond the agreed term of the Lease plus “2.5% inflation per annum compounded”).
 7. By an Interim Final Award (“the **Interim Final Award**”) issued in the Arbitration on 24th January 2012, the Petitioner was awarded a sum of CI\$92,412.99 representing rent and interest owed to the Petitioner by the Company (the “**Debt**”) together with 1) specific costs in the sum of US\$7,837.50; and 2) the costs of the application for the Interim Final Award to be taxed if not agreed but subject to set off of an award of costs payable by the Petitioner to the Company of US\$4,125. The Interim Final Award stipulated that the Debt was to be paid by the Company to the Petitioner forthwith.
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8. By email and attached letters to Diamond Law Associates (former attorneys to the Company) and the Company's director, Mr Edward Chisholm, dated 26th January 2012 and 30th January 2012 respectively, attorneys acting for the Petitioner invited the Company to set out its proposals for payment of the sums due to the Petitioner. The Company did not respond. The Company has not paid or tendered any sum in respect of the sums owed to and demanded by the Petitioner.
9. By Directions issued on 6th February 2012 in the Arbitration, the Company was debarred from relying upon the paragraphs pleading its claims in the Counterclaim. At a final hearing in the Arbitration on 7th February 2012, the Petitioner consequently applied for the Counterclaim to be dismissed with costs.
10. By Final Award issued in the Arbitration on 14th March 2012 ("the **Final Award**"), the arbitrator dismissed the Counterclaim issued on behalf of the Company *in toto* and awarded costs of the Final Award and for defending the Counterclaim to the Petitioner, thereby bringing the Arbitration to an end.

Grounds for Winding Up

11. The Company is indebted to the Petitioner in the sum of C\$92,412.99 in respect of the Interim Final Award together with certain costs as set out in paragraphs 7 and 10 above.
 12. On the 13th February 2012, the Petitioner served on the Company, by service upon the Company's registered office, a Statutory Demand pursuant to section 93 of the Companies Law (2011 Revision) (the "**Companies Law**") and in the prescribed form ("the **Demand**").
 13. More than 21 days has now elapsed since the Petitioner served the Demand. The Company has failed to pay or satisfy the Debt or any part thereof or to make any offer to the Petitioner to secure or compound the same.
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14. For the foregoing reasons, the Petitioner submits that the Company is insolvent and unable to pay its debts and should therefore be wound up.

Your Petitioner therefore humbly preys that:-

- (1) The Company be wound up in accordance with the Companies Law.

 - (2) MR HUGH DICKSON & MR MICHAEL EDWARD GEORGE SAVILLE (Mike Saville) of Grant Thornton Specialist Services (Cayman) Limited of 10 Market Street, #765 Camana Bay, Grand Cayman, Cayman Islands, KY1-9006 (Grant Thornton) be appointed as Joint Official Liquidators of the Company.

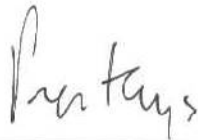
 - (3) The Joint Official Liquidators not be required to give security for their appointment.

 - (4) The Joint Official Liquidators be authorised to take such steps as may be necessary or expedient for the protection of the Company's assets, and for that purpose may exercise any of the powers specified in the Companies Law (2011 Revision) without further sanction of the Court, 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 Joint Official Liquidators shall have the power:
 - a. to bring or defend any action or other legal proceeding in the name of and on behalf of the Company;
 - b. to take possession of, collect and get in the property of the Company and for that purpose take all such proceedings as they consider necessary;
 - c. to carry on the business of the Company so far as may be necessary for its beneficial winding up;
 - d. to engage Attorneys and other professional qualified persons to assist them in the performance of their functions; and
 - e. to engage staff (whether or not as employees of the Company) to assist them in the performance of their functions.
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- (5) The Joint Official Liquidators be authorised to act joint and severally.
- (6) The Joint Official Liquidators be at liberty to apply for further directions concerning their functions and the exercise or proposed exercise of their powers.
- (7) No suit, action or other proceeding may be proceeded with or commenced against the Company except with the leave of the Court and subject to such terms as the Court may impose.
- (8) The remuneration and expense of the Joint Official Liquidators be paid out of the assets of the Company.
- (9) The Petitioners costs of and incidental to this Petition be paid from the assets of the Company as expenses within the liquidation.

AND your Petitioners will ever pray etc

Dated the 23rd of March 2012



PRIESTLEYS

NOTE: It is intended to serve this Petition on the Company.

NOTICE OF HEARING

Take Notice that the hearing of this petition will take place at the Law Court, George Town, Grand Cayman on the day of 2012 at am/pm.

Any correspondence or communication with Court relating to the hearing of this petition should be addressed to the Registrar of the Financial Service Division of the Grand Court at PO Box 495, Grand Cayman KY1-1106, telephone 345 949 4296.