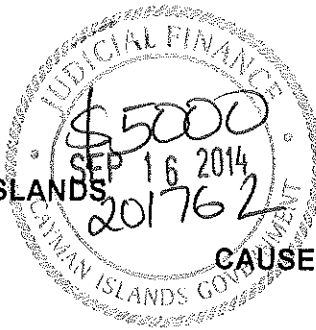


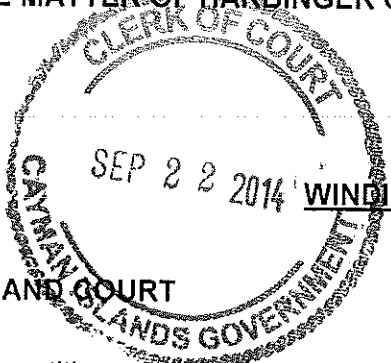
IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION



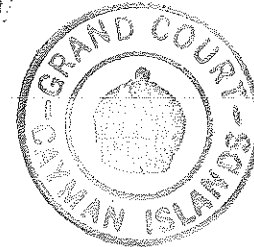
CAUSE NO: FSD 103 OF 2014 (A55)

IN THE MATTER OF SECTION 36(3) OF THE EXEMPTED LIMITED PARTNERSHIP LAW,
2014

AND IN THE MATTER OF HARBINGER CHINA DRAGON INTERMEDIATE FUND L.P.



WINDING UP PETITION



TO THE GRAND COURT

The humble petition of CDGB Ltd. whose registered office is at 190 Elgin Avenue, George Town, Grand Cayman KY1-9001, Cayman Islands in its capacity as the general partner of Harbinger China Dragon Fund L.P. (the "**Feeder Partnership**") whose registered office is at Ogier Fiduciary Services (Cayman) Limited, 89 Nexus Way, Camana Bay, Grand Cayman KY1-9007, Cayman Islands (the "**Petitioner**") shows that:

Introduction

1. Harbinger China Dragon Intermediate Fund L.P. (the "**Partnership**") was registered in the Cayman Islands on 1 March 2010 as an exempted limited partnership with registration number 39124 pursuant to the Exempted Limited Partnership Law (2009 Revision) (referred to herein, together with amendments and revisions thereto, as the "**ELP Law**"). The registered office of the Partnership is at Ogier Fiduciary Services (Cayman) Limited, 89 Nexus Way, Camana Bay, Grand Cayman KY1-9007, Cayman Islands.
2. The general partner of the Partnership is Global Opportunities Breakaway GP, L.L.C. (the "**General Partner**"), a limited liability company incorporated in Delaware, United States of America ("**USA**") whose registered office is at 615 South DuPont Highway, County of Kent, City of Dover, State of Delaware 19901, USA. As required by section 4(5)(b) of the ELP Law, the General Partner appears to have been registered in the Cayman Islands on 22 January 2009 as a foreign company with registration number

222360 pursuant to Part IX of the Companies Law (as amended). The Cayman Islands registered office of the General Partner is at Maples Corporate Services Limited, PO Box 309, Ugland House, South Church Street, Grand Cayman KY1-1104, Cayman Islands.

3. The Feeder Partnership is a limited partner of the Partnership. The only other limited partner of the Partnership is Harbinger Holdings, LLC ("**Harbinger LLC**"), a limited liability company incorporated in Delaware, USA. The Petitioner understands that Philip Falcone ("**Falcone**") (or an associated entity that is controlled by Falcone) controls all of the operations of Harbinger LLC.
4. The General Partner, the Feeder Partnership and Harbinger LLC are parties to an Amended and Restated Limited Partnership Agreement of the Partnership dated 5 April 2010 (the "**LPA**"). Unless otherwise defined in this petition, capitalised terms used herein shall have the same meaning as ascribed to those terms in the LPA.
5. The Petitioner seeks a winding up order in respect of the Partnership and its affairs on the basis that there has been a justifiable loss of trust and confidence in the General Partner rendering it just and equitable that the Partnership be wound up and/or the management and conduct of the General Partner is such that it is unjust and/or inequitable to require the Feeder Partnership to continue as a limited partner in the Partnership, for the following reasons:
 - (a) The business of the Partnership is paralysed as it is expressly prohibited from making capital calls from the Feeder Partnership.
 - (b) Even if the Partnership is able to make capital calls with the consent of the Independent Monitor (as defined below), which is not accepted by the Petitioner, the very fact that the General Partner has lost the freedom and ability to call capital as and when it is required in accordance with the LPA detrimentally affects, and severely restrains, the General Partner's ability to conduct the business of the Partnership in a timely and proper manner.
 - (c) Falcone, who, as set out below, is the person ultimately in control of the General Partner and the Investment Manager (as defined below), has engaged in gross misconduct in relation to his investment advisory business by admitting in a

consent judgment entered in the U.S. District Court for the Southern District of New York (the "**US Court**") to multiple acts of misconduct that harmed investors and interfered with the normal functioning of the securities markets in violation of USA federal securities laws, including the misappropriation of investors' funds to satisfy personal taxation liabilities and interfering in the normal interplay of supply and demand in bonds in respect of enforcement actions brought by the United States Securities and Exchange Commission (the "**SEC**").

- (d) The only individuals remaining in the entire 'Harbinger operation' to potentially allow the General Partner and Investment Manager to function are Falcone, an in-house attorney, one analyst and certain back office support staff. There are no traders still employed.
- (e) The Partnership, the General Partner and the Investment Manager understand that they must take all actions necessary to expeditiously satisfy all redemption requests of investors and such steps may include the orderly disposition of assets.
- (f) The economic performance of the Partnership has been catastrophic given that the total value of the Partnership's investments has reduced by 94.33% according to the May 2014 Report (as defined below).
- (g) There is no intention on the part of the General Partner to make any further investments.
- (h) Together and/or separately, such conduct as summarised above and set out further below, has justifiably led the Feeder Partnership to have lost all trust and confidence in the General Partner in circumstances where the Feeder Partnership holds approximately 94% of the economic interest in the Partnership and the remaining 6% of the economic interest is held by the General Partner.
- (i) Alternatively, together and/or separately, certain of the conduct as summarised above and set out further below, is sufficient to evidence a lack of probity on behalf of the General Partner and/or Falcone.

- (j) Further or alternatively, the conduct of the General Partner and/or Falcone evidences the need for an independent investigation by independent official liquidators (officers of this Honourable Court) into the affairs of the Partnership.
 - (k) Further or alternatively, the Partnership has no future but to engage in a "soft wind-down" of its remaining assets and it has become impractical for it to continue its business in the manner originally contemplated by its stakeholders (including the Feeder Partnership); the Partnership has therefore lost its substratum and the Petitioner is therefore entitled to a compulsory winding up by independent official liquidators (officers of this Honourable Court).
6. The Petitioner does not have sufficient rights pursuant to the LPA to: (i) cause the Partnership to be contractually wound up on a voluntary or other basis; or (ii) take any other effective action to replace the General Partner, such that there is no reasonable alternative but to present this petition.

Background and Formation of the Partnership

7. During 2009 the global economy was in the process of recovering from the pervasive financial crisis which had severely adversely affected world markets in 2008. At this time, SK Telecom Co., Ltd. ("SK") was seeking to generate superior absolute returns by making primarily equity investments in public and private investment opportunities. SK learned that Harbinger Capital Partners LLC ("HCP") and its founder and chief investment officer, Falcone, had – at that time – an excellent reputation and impressive track record for making investments in similar situations. Falcone, a citizen of the USA, had substantial investment experience and was understood to have derived significant personal wealth consequentially. In addition, the investment sectors on which HCP focussed were similar to SK's major business operations, being telecommunications.
8. Following various meetings between representatives of SK and Falcone and representatives of HCP, SK determined in or about February 2009 that it would invest in Global Opportunities Breakaway Fund, L.P. (the "**GOB Fund**"), a Cayman Islands exempted limited partnership that was controlled and managed ultimately by Falcone but in which SK had virtually the entire economic interest. This was the commencement of the investor/investment manager relationship between SK and Falcone.

9. From inception to early 2010, the GOB Fund performed as anticipated and, based on this performance and the expertise, knowledge and focus which had been represented by Falcone, in or about March 2010 SK introduced its affiliates, SK Energy Co., Ltd. (whose interests were later transferred to SK Innovation Co., Ltd.), SK Networks Co., Ltd. and YTK Investment Ltd. (collectively, the "**Limited Partners**") to Falcone and HCP.
10. Following various meetings between representatives of the Limited Partners, Falcone and HCP, it was agreed that the Limited Partners would invest in a fund that would focus on investments in the People's Republic of China (the "**PRC**") and that would be controlled and managed ultimately by Falcone, but in which the Limited Partners would have a significant majority of the economic interest. It was further agreed that this fund would be a 'master-feeder' structure such that the Limited Partners (which became the sole limited partners of the Feeder Partnership) would invest in the 'feeder fund' (the Feeder Partnership) that would then contribute virtually all of its assets to the 'master fund' (the Partnership). At all material times, it was represented that Falcone would ultimately control all of the operations of the general partners of the 'feeder fund' and the 'master fund' (which ultimately became the General Partner, which acted as the general partner for both the Feeder Partnership and the Partnership) and any investment manager retained by the 'feeder fund' or the 'master fund'. In essence, for all intents and purposes, the Partnership, in conjunction with the Feeder Partnership, constituted a joint venture with Falcone to invest in the PRC (as is outlined further below) with the benefit of Falcone's stated investment management expertise.
11. Pursuant to clause 2.2(b) of the LPA, the purpose of the Partnership is to: *"seek to generate superior absolute returns by making primarily equity investments in public and private investment opportunities in the People's Republic of China"* (the "**Purpose**").
12. The Purpose is expressed to be pursued in clause 2.2(c) of the LPA as follows:

"[The Partnership] will invest, directly or indirectly, through Harbinger China Dragon Trading Vehicle Pte. Ltd., a private company incorporated in Singapore (the "Trading Vehicle"), and is expected to invest (solely with respect to the Strategic Limited Partner) the proceeds of the issuance of Class B Interests in non-fee bearing interests in a private investment vehicle domiciled in China (the "China Onshore Fund")."

13. As might be expected with a 'master-feeder' structure, the Purpose is exactly the same purpose of the Feeder Partnership set out in the Amended and Restated Limited Partnership Agreement of the Feeder Partnership dated 5 April 2010 (as amended) (the "Feeder LPA"). A Confidential Private Offering Memorandum dated April 2010 (the "CPPM") was issued by the Feeder Partnership to the Limited Partners which, for similar reasons, the Petitioner considers is relevant in terms of construing the investment objectives of the Partnership and the way in which the Partnership was intended to operate. By way of example, the CPPM provides:

- (a) *"(Falcone) has day-to-day operating and investment responsibility for the General Partner" and "the General Partner has ultimate responsibility for the management, operation and the investment decisions made on behalf of the (Feeder Partnership)";*
- (b) *"Harbinger Capital Partners II LP, a Delaware limited partnership (the "Manager") will provide the (Feeder Partnership) and the (Partnership) with investment management services, subject to the oversight of the General Partner" and "the Manager will make all decisions relating to investments, subject to the oversight of the General Partner and the board of directors of the Trading Vehicle respectively". As is noted below, Falcone controls the operations of the General Partner and "the Manager" (defined below as the Investment Manager). The "Trading Vehicle's" board of directors consists of three members: Falcone, Peter A Jenson (HCP's Managing Director and Chief Operating Officer) and Saliem Majeed;*
- (c) *"the (Feeder Partnership) intends to employ a range of risk management guidelines and procedures...in its efforts to monitor portfolio volatility and risk...these guidelines may change from time to time, are not strict limits, and may be exceeded at the discretion of the General Partner....These risk management guidelines will be monitored by (Falcone) in collaboration and consultation with his investment team, outside providers and his operations team";*
- (d) *"investors in the (Feeder Partnership) will be Limited Partners and as such will have no right or power to participate in its management, except as otherwise set*

- out in the Partnership Agreement. Investors will not receive the detailed financial information issued by RMB Portfolio Companies that is available to the General Partner. Accordingly, no person should purchase Interests unless such person is willing to entrust all aspects of the management of the (Feeder Partnership) to the General Partner and the Manager";
- (e) "the success of the (Feeder Partnership) will depend on the ability of the General Partner, the Trading Vehicle's board of directors, the Manager and the Investment Manager to identify and consummate suitable investments, improve the operating performance of the Portfolio Companies and dispose of investments at a profit"; and
- (f) "an investor in the (Feeder Partnership) must rely on the ability of the Manager and the General Partner to identify, structure and implement investments consistent with the (Feeder Partnership's) objectives and policies. Investors in the (Feeder Partnership) will not have the opportunity to evaluate business, financial and other information that will be used by the General Partner in its analysis, selection and monitoring of Portfolio Company investments for the (Feeder Partnership)."
14. It is clear that Falcone's role as the driving force and directing mind and will behind the General Partner, the Investment Manager (as defined below) and HCP and the person who was ultimately responsible for investment decisions is of critical importance to the viability of the joint venture as a whole and to the Partnership's ongoing viability as an investment vehicle.
15. Pursuant to clause 11.1 of the LPA, the Partnership shall continue until dissolved by the General Partner, or unless it is sooner dissolved in accordance with clause 11.2 of the LPA or by operation of law.
16. Clause 11.2 of the LPA provides that the Partnership shall be wound up, dissolved and terminated upon the first to occur of the following:
- (a) the expiration of the term described in clause 11.1 of the LPA;

- (b) the determination of the General Partner in good faith that changes in applicable law or regulation would have a material adverse effect on the continuation of the Partnership or that such action is necessary or desirable in order for the Partnership to comply with applicable laws;
 - (c) following termination of the Commitment Period, upon the determination of the General Partner to dissolve the Partnership;
 - (d) after a Key Man Event, if the Feeder Partnership dissolves; and
 - (e) subject to certain qualifications as set out in the LPA, the date on which the General Partner ceases to be a general partner or an event of withdrawal as general partner by the General Partner under Cayman Islands law.
17. It is apparent from the above that the General Partner has broad ranging discretion in relation to any termination, liquidation or dissolution of the Partnership. In any event, the terms of the LPA do not presently provide for any termination or dissolution of the Partnership by any limited partner (including the Feeder Partnership).

Recent Events Involving the Petitioner and the Petitioner's Investment

18. As noted above, the general partner of the Feeder Partnership was previously the General Partner. With effect from 14 August 2014, the Limited Partners removed the General Partner from its role as the general partner of the Feeder Partnership and appointed the Petitioner as the general partner of the Feeder Partnership in accordance with the Feeder LPA.
19. The Feeder Partnership is one of the two limited partners of the Partnership and holds approximately 94% of the economic interest in the Partnership.
20. Pursuant to the terms of the LPA, the Feeder Partnership agreed to a US\$500,001,000.00 capital commitment to the Partnership. The Feeder Partnership has to date duly paid US\$93,001,000.00 in the following tranches to meet capital calls which have been made by the Partnership:
- (a) US\$30,564,000.00 pursuant to a capital call made in December 2010;

- (b) US\$24,000,000.00 pursuant to a capital call made in June 2011;
- (c) US\$32,812,000.00 pursuant to a capital call made in August 2012; and
- (d) US\$5,625,000.00 pursuant to a capital call made in October 2012.

21. It is understood from the last monthly report relating to the Partnership for the period ending 31 May 2014 received from HCP (the "**May 2014 Report**") that the Partnership is solvent. Accordingly, the Feeder Partnership has a tangible interest in the liquidation of the Partnership.

The General Partner

22. Clause 8.2 of the LPA provides that the General Partner is vested with the full, exclusive and complete right, power and discretion to operate, manage and control the affairs of the Partnership. The Petitioner is expressly prohibited from any participation in the conduct of the Partnership's business pursuant to clause 7.3 of the LPA.

23. The members of the General Partner are:

- (a) Global Opportunities Breakaway MM, L.L.C. ("**Breakaway MM**") which is the managing member of the General Partner holding 75% of the issued share capital (and therefore economic interest) in the General Partner; and
- (b) SK GI Management ("**SK GI**") which is the non-managing member of the General Partner holding 25% of the issued share capital (and therefore economic interest) in the General Partner. SK GI is affiliated with the Feeder Partnership's limited partners.

24. Pursuant to Article 3.01 of the Limited Liability Company Agreement of the General Partner:

- (a) Breakaway MM has authority and control over the operations of the General Partner; and
- (b) SK GI has no power with respect to the management, operation or control of the business of the General Partner.

25. The managing member of Breakaway MM is Falcone. Accordingly, Falcone ultimately controls Breakaway MM and the General Partner and therefore all the operations of the Partnership.
26. Pursuant to the terms of the LPA, the General Partner agreed to a capital commitment of US\$33,333,000.00 to the Partnership of which it is understood that US\$6,200,000.00 has been duly paid. Accordingly, the General Partner holds a minor economic interest (approximately 6%) in the Partnership when compared with the Feeder Partnership's contribution of capital to the Partnership of US\$93,001,000.00 (as set out above).

Harbinger LLC

27. As is noted above, Harbinger LLC is also a limited partner of the Partnership.
28. Harbinger LLC has made no capital commitment to the Partnership and has therefore not been required to meet any capital calls. Accordingly, it is understood that Harbinger LLC has no limited partnership interests (and therefore no economic interest) in the Partnership.
29. The sole purpose of Harbinger LLC being a limited partner of the Partnership appears to be in order to contractually prevent the Feeder Partnership from removing the General Partner pursuant to clause 2.5 of the LPA. The General Partner can, relevantly, only be removed pursuant to clause 2.5 of the LPA upon the vote of a majority in number of the limited partners of the Partnership. Harbinger LLC therefore holds a 'blocking vote' with respect to any attempt by the Feeder Partnership to remove the General Partner.

The Investment Manager

30. As contemplated by clause 8.3(a)(xviii) of the LPA, the General Partner retained Harbinger Capital Partners II, L.P. (the "**Investment Manager**"), a limited partnership formed in Delaware, USA, to provide certain management and administration services to the Partnership, including origination, structuring and recommending certain investments to the Partnership, sourcing capital to finance investments, monitoring the performance of the Partnership's investments and making recommendations in relation to the disposition of assets.

31. The general partner of the Investment Manager is Harbinger Capital Partners II GP LLC ("**Harbinger GP**"), a limited liability company incorporated in Delaware, USA, whose managing member is Falcone. The sole limited partner of the Investment Manager is Falcone. Accordingly, Falcone controls Harbinger GP and therefore all of the operations of the Investment Manager.
32. Clause 8.3(a)(xviii) of the LPA also provides that, notwithstanding the appointment of the Investment Manager, management, control and conduct of the activities of the Partnership remain the responsibility of the General Partner.
33. In reality, save for certain technical steps which can only be taken by the General Partner in accordance with the terms of the LPA or the Investment Manager, there is no separation between the roles of the General Partner and the Investment Manager with respect to the conduct of the affairs of the Partnership; Falcone wholly controls both entities.

Recent Matters Involving Falcone

34. On or about 27 June 2012, the SEC commenced enforcement actions in the US Court against Falcone, HCP and related entities. The SEC alleged that the defendants engaged in serious misconduct in the course of their investment activities, and asserted, *inter alia*, claims of securities fraud, misappropriation of client assets and market manipulation.
35. In or around August 2013, Falcone, HCP and related entities agreed to the entry by the US Court of a Final Consent Judgment against them (the "**Consent Judgment**") pursuant to which, *inter alia*:
 - (a) Falcone admitted to multiple acts of misconduct that harmed investors and interfered with the normal functioning of the securities markets in violation of USA federal securities laws, including the misappropriation of investors' funds to satisfy personal taxation liabilities and interfering in the normal interplay of supply and demand in bonds;

- (b) Falcone agreed to take no action or make or permit to be made any public statement denying, directly or indirectly, any allegation in the complaints or creating the impression that the complaints are without factual basis;
 - (c) subject to the limited exception identified in paragraph (d) below, Falcone is prohibited from acting as or being an associated person of any dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent or nationally recognised statistical rating organisation;
 - (d) Falcone may remain an associated person of certain entities, including the General Partner and the Investment Manager; and
 - (e) certain entities associated with Falcone, including the General Partner and the Investment Manager, are prohibited from raising new capital or making capital calls from existing investors.
36. In addition, the Consent Judgment provides that certain entities associated with Falcone (which does not include the Partnership, the General Partner and the Investment Manager) shall:
- (a) take all actions necessary to expeditiously satisfy all pending and hereafter received redemption requests of investors and such steps may include the orderly disposition of assets; and
 - (b) be subject to the oversight of an independent monitor appointed pursuant to the Consent Judgment (the "**Independent Monitor**").

Notwithstanding this, it is understood, as set out below, that representatives of the General Partner and the Investment Manager consider that this aspect of the Consent Judgment applies (where relevant) to the Partnership, the General Partner and the Investment Manager (and it was an administrative error the Consent Judgment did not refer to these entities). The Petitioner accepts this position.

37. The Consent Judgment was approved and entered by the US Court on 16 September 2013.

38. The Petitioner is also aware of a civil proceeding which has been commenced in the US Court against a number of defendants including Falcone (there may be other civil proceedings of which the Petitioner is presently unaware). The name of this proceeding is *In Re: Harbinger Capital Partners Funds Investor Litigation*, CASE #: 1:12-cv-01244-AJN (S.D.N.Y.) and it concerns a class and derivative action brought on behalf of the Harbinger family of hedge funds and their investors and seeks to recover approximately US\$3 billion of alleged losses caused by Falcone's alleged fraudulent and/or grossly negligent misrepresentations to investors and breaches of fiduciary duties.

Recent Correspondence

39. On 8 April 2014, prior to the replacement of the General Partner with the Petitioner as general partner of the Feeder Partnership, the USA legal counsel acting on behalf of the Limited Partners of the Feeder Partnership, Simpson Thacher & Bartlett LLP ("STB"), held a conference call with an authorised representative of HCP, Keith Hladek, and HCP's USA legal counsel, Schulte Roth & Zabel LLP ("SRZ"), during which Mr Hladek stated, inter alia, the following:

- (a) the omission of any reference to the Partnership in the Consent Judgment was an oversight and that the Partnership should have been covered by those aspects of the Consent Judgment noted in paragraph 36 above;
- (b) the General Partner considers it does not have authority to make a capital call for new investments, but had the requisite authority to reinvest investment proceeds into new investments without the consent of the Feeder Partnership or the Independent Monitor (although the General Partner currently has no intention of making any new investments);
- (c) the General Partner has authority to pay management fees out of distributions;
- (d) all capital calls are subject to the consent of the Independent Monitor;
- (e) the high level of expenses in respect of which the General Partner proposes to make a capital call are as a result of the anticipated costs of the wind-down of the PRC fund structure; and

- (f) in the entire 'Harbinger operation', no traders remain employed and the only remaining people are Falcone, an in-house attorney, one analyst and certain back office support staff.
40. On 17 June 2014, prior to the replacement of the General Partner with the Petitioner as general partner of the Feeder Partnership, Mr Hladek sent an email to representatives of the Limited Partners of the Feeder Partnership stating that:
- (a) Wells Fargo Global Fund Services LLC (the "**Wells Fargo**") had resigned as the administrator of the Feeder Partnership and the Partnership;
 - (b) going forward, capital statements will not be issued for the Feeder Partnership (and therefore, the Petitioner believes, the Partnership); and
 - (c) a decision would need to be made about the annual audit given that Wells Fargo played a key role in the "*financial statement process*".

Inability to Call Capital

41. The only way in which the business of the Partnership (other than the realisation of its assets) can continue is through the making of capital calls on the limited partners of the Partnership (including the Feeder Partnership).
42. Notwithstanding the matters set out above, the terms of the Consent Judgment expressly prohibit the General Partner from making capital calls from the Feeder Partnership regardless of whether that capital call is purportedly made with the consent of the Independent Monitor (or otherwise).
43. Even if HCP's position that it is able to make capital calls with the consent of the Independent Monitor was accepted (which it is not by the Petitioner), the very fact that the General Partner has lost the freedom and ability to call capital as and when it is required in accordance with the LPA detrimentally affects, and severely restrains, the General Partner's ability to conduct the business of the Partnership in a timely and proper manner. In this regard, it has been acknowledged in a letter from SRZ to STB dated 3 April 2014 that the General Partner's inability to call capital without the consent of the Independent Monitor at that time may result in the Partnership receiving a "*going*

concern opinion" (that is, an opinion expressing concerns as to the ability of the Partnership to continue as a going concern) in connection with the audit of the Partnership's financial statements for the year ended 31 December 2013.

44. Accordingly, the General Partner is not in a position to and is, indeed, unable, to call capital in the manner envisioned when the Partnership was established.
45. The Partnership is therefore prevented from conducting its affairs or engaging in any business. Furthermore, there is no intention on the part of the General Partner to make any further investments. As such, the business of the Partnership is paralysed.
46. In light of the above circumstances, the SEC's investigation into Falcone and his related entities (and the subsequent Consent Judgment), the allegations made in the civil litigation against Falcone and the skeletal staff remaining at the General Partner / Investment Manager, the Petitioner and the Feeder Partnership have justifiably lost all trust and confidence in the General Partner and its ability to manage the affairs of the Partnership.
47. Further, or in the alternative, the matters pleaded above clearly demonstrate the need for an independent investigation by independent official liquidators (officers of this Honourable Court) into the affairs of the Partnership.
48. Further, or in the alternative, the matters described above lead to the inescapable conclusion that the Partnership has no future but to engage in a "soft wind-down" of its remaining assets and it has become impractical for it to continue its business in the manner originally contemplated by its stakeholders (including the Feeder Partnership); the Partnership has therefore lost its substratum and the Petitioner is therefore entitled to a compulsory winding up by independent official liquidators (officers of this Honourable Court).
49. In those circumstances, it is unjust and inequitable to require the Feeder Partnership to continue as a limited partner of the Partnership.

Poor investment performance by the General Partner and/or the Investment Manager

50. According to the May 2014 Report, the assets and liabilities of the Partnership were as follows:
- (a) Series VI Preferred Notes in Asian Coast Development Ltd., a company registered in Canada, which is currently engaged in the development of a casino and resorts in Vietnam (the "Notes"). The current value of the Notes (according to the General Partner) is US\$6,185,765 (the Partnership having invested US\$35,450,700.00 in the Notes to date). The value of the Notes has plummeted by 82.55% between November 2013 and May 2014 and the Petitioner understands from HCP that the Notes are expected to continue to fall in value in the short term;
 - (b) other assets in the amount of US\$22,250.01;
 - (c) available cash in the amount of US\$20,537.92; and
 - (d) total liabilities in the amount of US\$586,640.62.

This equates to a net asset value of US\$5,641,912.31, of which the Feeder Partnership's interest totals US\$5,269,546.10.

51. According to the May 2014 Report, the Partnership has invested capital contributions in the amount of US\$93,001,000.00 in the period from its inception to 31 May 2014. Based on the value of the Partnership's Assets as set out at paragraph 50 above, the value of the Partnership's investments has therefore fallen by a total of 94.33% (there having been no distributions to the Feeder Partnership throughout the life of the Partnership).
52. By way of further example, the Partnership previously made an equity investment in CODA Holdings, Inc. ("CODA"), a company registered in the State of Delaware, USA, whose business involved designing, developing and selling all-electric vehicles, electric drive propulsion systems and stationary energy storage systems in the PRC, in the amount of approximately US\$53,000,000.00. On 1 May 2013, CODA (and certain affiliated entities) filed for protection under Chapter 11 of the United States Bankruptcy Code and the Partnership ultimately received nil in respect of this investment (it was

written down in the Partnership's accounts to nil and removed entirely from the accounts in August 2013 on the basis it no longer existed). Falcone acknowledged in an email dated 22 November 2012 to a representative of the Limited Partners that HCP's representative who was monitoring the Partnership's investment in CODA was "*asleep at the switch*" and the investment was "*an unmitigated disaster*".

53. The activities of the General Partner and/or the Investment Manager in conducting the business of the Partnership amount to nothing more than poor speculation and mismanagement on the part of the General Partner.
54. The performance of the Partnership has justifiably led the Feeder Partnership and the Petitioner to have lost all trust and confidence in the General Partner and its ability to manage the affairs of the Partnership. Further, or in the alternative, the performance evidences a lack of probity on the part of the General Partner. In those circumstances, it is unjust and inequitable to require the Feeder Partnership to continue as a limited partner of the Partnership.
55. Further, or in the alternative, the catastrophic performance of the Partnership evidences the need for an immediate investigation into the affairs of the Partnership by independent official liquidators (officers of this Honourable Court), including so as to ensure that the Feeder Partnership can salvage what remains of its capital contributions.

Petitioner's loss of trust in Falcone

56. As set out above, the premise of the Partnership was that the Limited Partners, via the Feeder Partnership, would invest alongside Falcone, thereby benefiting from Falcone's investment expertise. This expertise was to be provided by Falcone through his ownership and control of the General Partner and the Investment Manager.
57. However, in circumstances where Falcone has, pursuant to the terms of the Consent Judgment, admitted to engaging in gross misconduct in relation to his investment advisory business, the Feeder Partnership and Petitioner have justifiably lost all trust and confidence in Falcone's ability to manage the business and affairs of the Partnership through the General Partner and the Investment Manager.

58. Accordingly, Falcóne's (admitted) gross misconduct has justifiably led the Feeder Partnership and the Petitioner to have lost all trust and confidence in the General Partner and its ability to manage the affairs of the Partnership.
59. On 25 August 2014, STB sent a letter to SRZ requesting that, inter alia, for essentially the reasons outlined in this petition, the General Partner take immediate consensual steps to have a replacement general partner appointed in respect of the Partnership. The General Partner has refused to accede to this request.
60. In all the circumstances, it is just and equitable that the Partnership be wound up and that independent liquidators be appointed to wind up the affairs of the Partnership.

Nomination of Joint Official Liquidators

61. The Petitioner nominates Stuart Sybersma and Michael Penner of Deloitte & Touche, Citrus Grove, Goring Avenue, PO Box 1787, George Town, Grand Cayman KY1-1109, Cayman Islands, for appointment as joint official liquidators of the Partnership ("Liquidators").

YOUR PETITIONER THEREFORE HUMBL Y PRAYS THAT:

1. That the Partnership be wound up in accordance with section 36(3) of the ELP Law and section 92(e) of the Companies Law (2013 Revision).
2. That Stuart Sybersma and Michael Penner of Deloitte & Touche, Citrus Grove, Goring Avenue, PO Box 1787, George Town, Grand Cayman KY1-1109, Cayman Islands, be appointed as Liquidators of the Partnership.
3. The Liquidators shall not be required to give security for their appointment.
4. The Liquidators shall have the power to act jointly and severally in their capacity as Liquidators of the Partnership.
5. The Liquidators shall be authorised to do any acts or things considered by them to be necessary or desirable in connection with the dissolution of the Partnership and the winding up of its affairs.

6. The Liquidators be authorised to exercise all the powers set out in paragraphs 1, 2, 4, 7, 8, 10 and 11 of Part 1 of the Third Schedule of the Companies Law (as amended) and section 110(2) thereof without the further sanction of this Honourable Court.
7. Without limitation to the generality of the powers specified in paragraph 6 above, it is confirmed that the Liquidators shall have the power to:
 - (a) bring or defend any action or other legal proceeding in the name and on behalf of the Partnership and to engage attorneys for such purposes in order to secure the assets of the Partnership;
 - (b) take all action required consistent with applicable law to carry on the business of the Partnership so far as may be necessary for its beneficial winding up; and
 - (c) take all action on behalf of the Partnership in the name of and to the exclusion of the General Partner which shall forthwith have no authority or power to act in relation to the Partnership other than at the direction and with the consent of the Liquidators.
8. No disposition of the Partnership's property by or with the authority of the Liquidators in carrying out their duties and functions and the exercise of their powers under any Order granted pursuant to this Petition shall be voided by virtue of section 99 of the Companies Law.
9. The Liquidators be at liberty to appoint attorneys, counsel and professional advisors, whether in the Cayman Islands or elsewhere, as they may consider necessary to advise and assist them in the performance of their duties in accordance with Order 25 of The Companies Winding Up Rules 2008 (as amended).
10. The Petitioner's costs of and incidental to the Petition shall be paid out of the assets of the Partnership as an expense of the liquidation, such costs to be taxed on an indemnity basis if not agreed with the Liquidators.

11. The Liquidators be at liberty to apply.

12. Such further and/or other relief as this Honourable Court deems appropriate.

AND your Petitioner will ever pray etc.

DATED the 16th day of September 2014.

Walkers

WALKERS
Attorneys at Law for the Petitioner

NOTE: This petition is intended to be served on:

The Partnership at Ogier Fiduciary Services (Cayman) Limited, 89 Nexus Way,
Camana Bay, Grand Cayman KY1-9007, Cayman Islands.

The General Partner at Maples Corporate Services Limited, PO Box 309, Ugland
House, South Church Street, Grand Cayman KY1-1104, Cayman Islands.

This Petition is presented by Walkers, Attorneys at Law, 190 Elgin Avenue, George Town, Grand Cayman KY1-9001, for the Petitioner whose address for service is care of their said Attorneys at Law.

NOTICE OF HEARING

TAKE NOTICE THAT the hearing of this petition will take place at the Law Courts, George Town, Grand Cayman, on _____ at 10:00am.

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