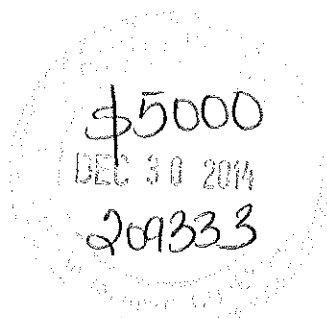
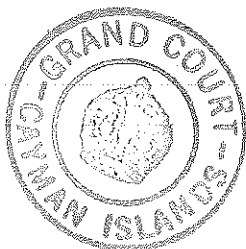


IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION



CAUSE NO: FSD 0153 OF 2014 (AJJ)

IN THE MATTER OF THE COMPANIES LAW (2013 REVISION)
AND IN THE MATTER OF BW FUNDING LIMITED



WINDING UP PETITION

TO the Grand Court of the Cayman Islands

THE HUMBLE PETITION of The Arab Investment & Export Credit Guarantee Corporation, having its address at Jamal Abdul Nasser Street, 5th Floor, Headquarters of Arab Organizations Building, Kuwait (the "Petitioner") shows that:

Introduction

- 1 By this Petition (the "Petition") the Petitioner seeks orders that BW Funding Limited ("BW Funding" or the "Company"), an exempted company registered in the Cayman Islands, be wound up pursuant to section 92(e) of the *Companies Law (2013 Revision)* (the "Companies Law"), on the basis that it is just and equitable to do so.
- 2 The Petitioner is a member and contributory of the Company, being the registered holder of 65 ordinary shares of BW Funding.
- 3 This Petition is filed together with a materially similar petition in respect of another exempted company registered in the Cayman Islands, BW Limited, of which the Petitioner is also a registered member. BW Funding and BW Limited form part of a single investment structure, as explained further below. In this Petition BW Funding and BW Limited are referred to as the "Companies". The Petitioner will invite this Honourable Court to hear these Petitions jointly.

Summary

- 4 In summary, and as is pleaded in greater detail below:

- 4.1 Pursuant to the terms of a subscription agreement dated 30 June 2008 (the "**Subscription Agreement**"), the Petitioner subscribed for shares in both BW Funding and BW Limited, for a total subscription price of US\$6,500,000.
- 4.2 Those Companies were part of a broader, complex and (ostensibly) Sharia law compliant structure (the "**Structure**") which facilitated an investment in the Best Western President Hotel in Times Square New York (the "**Hotel**").
- 4.3 The Structure was arranged and marketed by Investcorp Bank B.S.C ("**Investcorp**"). In addition to being the promoter of the Companies, Investcorp and/or its affiliates also holds a number of other roles and interests in the Structure. The Companies are and have at all material times been wholly under the complete control of Investcorp, and the directors of the Companies are employees of Investcorp. The Companies have no independent directors.
- 4.4 The shares in the Company were issued on the basis of a Private Placement Memorandum dated June 2008 (the "**PPM**"), as well as its Memorandum and Articles of Association dated 2 June 2008 (the "**M&AA**").
- 4.5 Altogether, through the Companies (and/or through related companies), the Structure raised a total of \$70,000,000 for the investment in the Hotel.
- 4.6 The Companies' performance has been catastrophically bad. The Petitioner has been informed by the Companies that the current net asset value ("**NAV**") of the Companies is zero.
- 4.7 The reasons for the Companies' failure are not well understood by the Petitioner – and the Structure continues to be attended by opaque, evasive and confusing disclosure to investors. However, the Companies (through their agent, Investcorp) lay the blame in large part on the existence of \$95 million in secured debt over the Hotel (the "**Secured Debt**"), which ranks ahead of the Companies' interests. Critically, neither the existence nor significance of that Secured Debt was disclosed in the PPM.
- 4.8 Part of the Secured Debt is now held by Investcorp or its affiliates, placing them in a further position of conflict of interest with the Companies.

4.9 Notwithstanding they claim no longer to have any material net assets or any on-going business interests to protect, the Companies have:

- (a) refused to provide any detailed financial information to the Petitioner, including copies of any audited financial statements of the Companies;
- (b) refused to provide a number of relevant documents requested by the Petitioner, directly contrary to the provisions of the PPM;
- (c) refused to disclose to the Petitioner the various fees, profits and revenues derived by Investcorp from the Companies and the Structure;
- (d) refused to provide a proper or reasonable explanation for the misleading content of the PPM, particularly in connection with the existence of the Secured Debt; and
- (e) refused to convene a general meeting of the shareholders of the Companies, or even to permit the Petitioner, through the Companies, to communicate with those other shareholders, thereby seeking to render nugatory the shareholders' right to convene a meeting of members.

4.10 Under cover of a letter dated 3 December 2014, the Companies (and/or Investcorp) are foisting onto the Petitioner and the Company's other members what is described as a "recapitalization" of the Hotel (the "**Proposed Recapitalization**"). However, that Proposed Recapitalization:

- (a) envisages and depends upon an unlawful compulsory redemption of all the shares of all the existing members of the Companies for nominal consideration, in circumstances where that is not permitted by the terms of the M&AA or the PPM;
- (b) involves yet further unmanaged conflicts of interest and self-dealing on the part of Investcorp (which is a principal economic beneficiary of that Proposed Recapitalization); and
- (c) is in substance an attempt to exit the existing members for no real consideration, and to re-purpose the Companies (which were special purpose vehicles), so as to ensure the existing members cannot take steps (including through official liquidators), to properly investigate the cause of the Companies' collapse.

5 In premise of the above, and for the reasons pleaded in greater detail below, it is just and equitable that the Company be wound up on the grounds that:

5.1 the Petitioner has justifiably lost trust and confidence in the management of the Company; and/or

5.2 there is a pressing need for independent oversight into the Company's affairs, and an investigation into the Companies' directors' and service providers' past conduct (including as to the basis on which the Company was caused and permitted to issue shares on the basis of a grossly misleading PPM), and into whether the Proposed Recapitalization is appropriate; and/or

5.3 its substratum has failed, insofar as it will never again function in any meaningful way as an investment vehicle in the Structure (and it has no other business).

6 The Petitioner has a material interest in the liquidation of the Company, at least insofar as it would be a beneficiary of any potential claims against directors and/or service providers arising from any such independent investigation.

The Companies and the Structure

7 The Companies, together with four other Cayman Islands companies (called BW Equity Limited; BW Holdings Limited; BW Investments Limited and BW Equity Investments Limited) (the "**Investment Companies**"), were established as special purpose vehicles for the sole purpose of investing into the Structure. The overall purpose of the Structure was to facilitate an ostensibly Sharia compliant private-equity investment in the Hotel.

8 Pursuant to its M&AA the Company has a single class of shares, being Ordinary Shares, the holders of which are entitled to, among other things, attend and vote at general meetings of the Company.

9 The Petitioner is the registered holder 65 Ordinary Shares in the Company (the "**Shares**"), which were issued pursuant to the terms of:

9.1 the Subscription Agreement;

9.2 the PPM; and

9.3 the M&AA.

10 The directors of the Companies are Ebrahim H Ebrahim and Ayman Al-Arrayed (the "**Directors**"). The Directors are both employees of Investcorp or one of its affiliates.

11 The Companies are not licenced as a mutual fund or otherwise with the Cayman Islands Monetary Authority.

12 A diagram of the Structure, as it was anticipated to exist after the acquisition of the Hotel, was set out in the PPM, and is replicated as Appendix A hereto (the "**Structure Diagram**"). In essence, according to the Structure Diagram and the PPM:

12.1 the Investment Companies raised US\$70 million in total from the Petitioner and other investors (the identities of which are unknown to the Petitioner, save that Investcorp asserts that they are also members of the Companies);

12.2 the Investment Companies in turn hold various "equity interests" in other entities incorporated in the Cayman Islands, Delaware, and possibly other jurisdictions (the "**Intermediary Companies**");

12.3 through the Intermediary Companies, the Companies have a 95% "equity interest" in the "**Master Lease Owning Entity**";

12.4 the Master Lease Owning Entity has a "Master Lease Agreement" with the Property Owning Entity; and

12.5 the Property Owning Entity owns the Hotel. The Property Owning Entity is in turn owned by Investcorp and/or its affiliates.

13 In premise of the above, it was proposed that the principal (or sole) source of the Companies' rights in connection with its investment, through its indirect interest in the Master Lease Owning Entity, was the Master Lease. As is set out further below, the Petitioner has not seen and has been refused a copy of this critical document.

14 The Petitioner does not know (and has no way of knowing) whether the Structure as it was in fact implemented, or as it currently exists, is accurately reflected by the Structure Diagram.

15 Between May 2009 and December 2010, the Petitioner received distributions from the Companies totalling \$478,224.55 (the "Distributions"). No further distributions have been received by the Petitioner from the Companies.

The Companies' catastrophic losses, the Secured Debt and material non-disclosure in the PPM

16 Notwithstanding that the Companies (along with the other Investment Companies) raised \$70 million from its members including the Petitioner, Investcorp on behalf of the Companies asserts that they are now wholly worthless and that the Companies' NAV is zero, such that the Petitioner and the other members have lost the whole of their investment in the Companies (save for the small Distributions already received).

17 Investcorp claims that this is in part a result of the poor performance of the Hotel. However, in order to explain the total loss of NAV, Investcorp says that it "*has been unable to sell the Hotel in 2013 for a price greater than the value of the [\$95 million Secured Debt]*" (letter from Investcorp to the Petitioner dated 22 June 2014).

18 In other words, Investcorp now says that, in order for members to recover any of their total \$70 million investment in the Companies in respect of their existing shares, the Hotel must now be sold for more than \$95 million (and this must always have been so, as Investcorp asserts that the Secured Debt existed at the establishment of the Structure). However, and although it is obviously a critical part of the economics of the Structure, the existence of the Secured Debt was not disclosed at all (alternatively, was not disclosed with sufficient or reasonable clarity) in the PPM. This is a striking and highly material omission. In particular:

18.1 there is no mention in the PPM of any security or encumbrance over or affecting the Hotel or the Property Owning Entity or any other entity in the Structure;

18.2 the Secured Debt is not reflected in the Structure Diagrams in the PPM;

18.3 although there is a passing reference to "Owners' Financing", even assuming that was a reference to the Secured Debt, its full significance and import is never explained; and

18.4 there is no clear statement to the effect that, if the Hotel cannot be sold for more than \$95 million (being the amount of the Secured Debt), the Companies would be worthless, and all of the investors' money would be lost.

19 On the basis of explanations provided by Investcorp subsequent to the Petitioner's subscription for its Shares (which explanations are themselves opaque and confusing):

19.1 The Hotel is, and has since at or prior to the acquisition of the Hotel by the Structure been, encumbered by \$95 million of Secured Debt, which is comprised of:

- (a) a first ranking mortgage to secure an amount of \$80 million (the "Senior Facility"); and
- (b) a second ranking mortgage to secure a further amount of \$15 million (the "Mezzanine Facility").

19.2 Investcorp asserts that it is not the lender with respect to the Senior Facility. However, the Property Owning Entity, being an entity owned by Investcorp and its affiliates, appears to be the borrower in respect of the Senior Facility.

19.3 As to the Mezzanine Facility:

- (a) According to a "Status Update" provided by Investcorp to the Petitioner under cover of letter dated 12 April 2009:

"Investcorp also [had] acquired the existing \$15 million Mezzanine Facility which is secured by the [Hotel]. The opportunity to purchase the Mezzanine Facility became available during the loan assumption process for the acquisition of the [Hotel] as the owner of the Mezzanine Facility, Crystal River Capital, Inc, has made clear its intention to liquidate its assets as part of a reorganisation of the company. Investcorp successfully completed the purchase of the Mezzanine Facility in December 2008. Investcorp intends to either sell or retain this investment" [Emphasis added].

- (b) In subsequent Reports for Investors (starting in December 2009), Investcorp said words to the effect that *"In 2009, Investcorp also acquired at a discount, \$15*

million [Mezzanine Facility] which it subsequently placed with investors in October 2009".

- (c) This was reaffirmed in a letter dated 19 September 2014 from Investcorp's solicitors, Gibson Dunn to the Petitioner's attorneys, Maples and Calder. In seeking to address who owned the Mezzanine Loan, Gibson Dunn wrote: "*Investcorp did acquire the [M]ezzanine [L]oan and placed it with investors in October 2009"* [Emphasis added]. The Petitioner does not know who these "investors" are, save to say that the Petitioner was not one of them. By this letter, the Companies created the impression that it was not the owner of the Mezzanine Loan.
- (d) That was then directly contradicted by a Report for Investors for the period ended 30 June 2014, provided to the Petitioner under cover of a letter from Investcorp dated 2 October 2014, which says "*In May 2014 [Investcorp] acquired the defaulted Mezzanine [Facility] on behalf of the equity investors"*. The Petitioner does not understand what this means, how that (re)acquisition of the Mezzanine Facility was funded, and/or whether the reference to equity investors is a reference to some or all of the members of the Companies. The Petitioner has not seen or executed any documents suggesting it has some beneficial interest in the Mezzanine Facility, and Investcorp is not authorised to acquire assets on the Petitioner's behalf. That same Report for Investors reaffirms that "*Current investors' capital is valued at zero"*.
- (e) That same transaction is described in the November 2014 Recapitalization PPM (as defined below), which asserts that "*In May 2014, the Mezzanine Lender was paid off at par with accrued interest"*, and that "*Investcorp and [the manager of the Hotel, Hampshire Hotels and Resorts ("HHR")] have recapitalized the Hotel with approximately \$35.5 million of equity on an 87.3% Investcorp/12.7% HHR basis. The proceeds from the [r]ecapitalization have been used to (i) purchase the Property Owners Mezzanine Loan principal of \$15.0 million and pay accrued interest thereon of approximately \$1.25 million.."* The Petitioner does not know who that "Mezzanine Lender" was, and/or whether it was controlled by Investcorp (and that term is not defined in the Recapitalization PPM). The Petitioner does

not know the extent to which Investcorp and/or its affiliates benefited from this transaction.

Investcorp's Conflicting Roles in the Structure, the Absence of Independent Oversight and Inadequate Disclosure

20 The Companies are wholly controlled by Investcorp. There is no independent oversight whatsoever. In particular:

20.1 The Directors are employees of Investcorp. There are no independent directors.

20.2 The Companies' "Administrator" is an affiliate of Investcorp, Investcorp Management Services Limited ("IMSL"). The PPM provides that "*IMSL will provide administrative services to the Investment Companies including supervision of their investment in the US Holding Company and of International Tax Counsel ... to the Investment Companies and the Investment Companies' Local Administrator*".

20.3 According to the PPM, the "Local Administrator" of the Companies is Paget-Brown Trust Companies Ltd, which provides "*clerical and administrative functions and registrar and transfer agency services for the shares of the Investment Companies*". This amounts to nothing more than a registered office function.

21 Investcorp and/or its affiliates have additional roles or interests in the Structure, which place them in a position of conflict of interest with the Companies. In particular:

21.1 Investcorp and/or its affiliates own the Property Owning Entity, which in turn owns the Hotel; and

21.2 as pleaded above at paragraph 19, Investcorp appears to have direct and/or indirect interests in the Secured Debt.

22 Under the heading "Conflicts of Interest", the PPM makes certain disclosures as to potential conflicts, and says "*It is therefore possible that the interests of Investcorp and those of Investors might diverge. In the event of a conflict of interest, Investcorp will endeavour to conduct itself so as to most fairly reconcile the various interests its serves, including those of Investors.*" [Emphasis added]. Investcorp and the Directors (who are its employees) have failed to make any such endeavours. To the contrary, the Directors' recent conduct in refusing to convene a meeting

of members and/or to make even the most basic disclosures to the Petitioner (as set out further below) amounts to "circling the wagons" to protect Investcorp, at the expense of the interests of the Company's members.

23 The Petitioner has received very limited and inadequate disclosure as to the financial position of the Companies. In particular:

23.1 Such financial and other disclosure which has been provided to the Petitioner, principally in the form of half-yearly reports, has been highly superficial. The only financial data contained in these reports has been high-level summaries of financial results relating to the Hotel, rather than to the Companies themselves (or to any other entity in the Structure, including the Property Owning Entity).

23.2 The Companies and Investcorp have refused to provide the Petitioner with any audited accounts of the Companies. In that regard:

(a) The PPM provides that "*The independent auditors of the [Companies] will be such independent auditors of international repute as the Administrator may select*" and further "*The [Companies] may distribute annual audited financial reports to shareholders*".

(b) No such audited financial statements have ever been provided to the Petitioner, and requests for those audited accounts have been refused.

(c) The Petitioner does not know whether auditors have ever been appointed to the Companies, and if so, the identity of those auditors, or whether audits have been conducted, and if so, for which years.

24 The Companies and Investcorp have refused to inform the Petitioner of the various fees, charges and profits which have been earned by Investcorp and its affiliates from the Companies, and from Investcorp's other roles in the Structure.

25 The Companies have also refused the Petitioner access to various documents referred to in the PPM which would assist it with better understanding the current status of the Structure and the Companies, including:

25.1 the Master Lease Agreement (as defined in the PPM);

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- 25.2 the Sale Agreement (as defined in the PPM);
- 25.3 the management agreement in connection with the Hotel;
- 25.4 valuations of the Hotel, including from HVS Consulting and Valuation Services; and
- 25.5 the Islamic Fatwa issued by Sheikh Nizam Yaquby.
- 26 These documents, among others, were requested in a letter dated 15 June 2014 to Investcorp from the Petitioner; a letter dated 8 September 2014 to Investcorp and the Companies from the Petitioner's Cayman Islands attorneys, Maples and Calder; and/or in a letter dated 24 September 2014 to Investcorp's and the Company's solicitors, Gibson Dunn from Maples and Calder.
- 27 Investcorp and the Companies have refused to provide those documents, notwithstanding that they are referred to in the PPM, and notwithstanding the PPM expressly provides:
- "The information in this [PPM] relating to the Memoranda and Articles of Association of the Investment Companies and other documents and instruments referred to herein does not purport to be complete and this [PPM] is qualified by reference to those documents ... Copies [of these documents] may also be mailed to prospective Investors upon request"*
[Emphasis added]
- 28 Further and in any event, there is no good reason for the Directors to refuse to provide the information sought by the Petitioners. The Directors cannot be seeking to protect the Company's interests when refusing these requests, in circumstances where the Companies have nothing left to lose.

The Proposed Recapitalization

- 29 Under cover of a letter dated 3 December 2014, Investcorp sent to the Petitioner a Private Placement Memorandum dated November 2014 entitled "*Recapitalization of the Best Western President Hotel*" (the "**Recapitalisation PPM**" and together, the "**Recapitalization Disclosure**").
- 30 According to the Recapitalization Disclosure, Investcorp and the Companies (through their directors, who are Investcorp employees), have determined, in essence, that:

- 30.1 All of the existing shares in the Companies (and in the other Investment Companies) shall be redeemed at par, ascribing them a nominal value of US\$1.00 per share (the "**Putative Redemption**").
- 30.2 The existing members of the Companies (and, to the extent this is not taken up by existing members, new investors), may pay additional money to subscribe for new shares in the Companies, with the proceeds of such subscriptions being used to fund a recapitalization of the Structure and the Hotel, which (without the consent of the Companies' members) has already been partially undertaken by Investcorp during 2014.
- 31 The Putative Redemption is unlawful, and if it were carried out, would be void. In particular:
- 31.1 the M&AA does not permit compulsory redemption of the Petitioner's Shares in these circumstances (and none of the limited circumstances at Article 8 of the M&AA apply); and
- 31.2 the PPM does not refer at all to the Shares being liable to be compulsorily redeemed in these (or indeed, any other) circumstances.
- 32 The Proposed Recapitalization is a further example of Investcorp's conflicts of interest in connection with the Companies and the Structure, and its on-going failure to manage those conflicts. In particular:
- 32.1 Investcorp (and/or its affiliates) is a principal beneficiary of the Proposed Recapitalization. For example:
- (a) Investcorp now holds all (alternatively, the majority) of the Mezzanine Facility. According to the Recapitalization Documents, the proceeds of the subscription for new shares in the Companies will be used, in part, to pay down the Mezzanine Facility.
- (b) Further, according to the Recapitalization PPM: "*It is projected that Investcorp will receive approximately \$2.5 million in unpaid management fees and expenses related to the original investment upon a future sale of the Hotel*".

32.2 There has been no independent oversight whatsoever in connection with the Proposed Recapitalization. The Companies do not appear to have engaged any relevant third party service providers to review or in any way opine on this transaction.

32.3 Further, the Putative Redemption sets the NAV of the Companies at a nominal sum. No investigation appears to have been done into the potential value of any claims which the Companies may have against its directors and/or service providers in connection with the total loss of the Company's assets, and/or the misleading disclosure in the PPM. Any such investigation conducted by the Companies' current directors and management would not in any case be reliable, in light of their conflict of interest.

32.4 Further and in any event, the decision to effect the Proposed Recapitalization including the Putative Redemption is not one which could have been taken by the Directors bona fide in the best interests of the Company (in the sense of being in the best interests of the Company's members as a whole, who would receive only nominal consideration for their shares). Rather, in attempting to "re-use" these special purpose vehicles in this way through the Putative Redemption, the Directors and/or Investcorp are effectively seeking to ensure that the existing members cannot take steps, including through official liquidators, to properly investigate the cause of the Companies' collapse.

33 The Recapitalization Disclosure does not contain any historical financial statements for the Companies (audited or otherwise). It contains only superficial data as to the Hotel's historical performance.

Justifiable Loss of Trust and Confidence in Management

34 In the circumstances set out above, the Petitioner has reasonably, justifiably and irrevocably lost trust and confidence in the Directors and the management of the Companies. These circumstances call for the introduction of independent oversight into the Companies, the Structure, and the Proposed Recapitalization, which is currently wholly lacking.

35 The Petitioner's loss of trust and confidence is further exacerbated by the Directors' improper refusal to convene a meeting of the members (including to discuss the dire position of the Company and to consider the appointment of additional or alternative directors to introduce much needed independent oversight), or even to permit them to communicate with the other investors. In particular:

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- 35.1 Pursuant to the M&AA, the Petitioner's Shares carry a right to receive notice of and to attend and vote at general meetings of the Company (Articles 20, 29 to 33).
- 35.2 The M&AA further confers a right on the holders of a majority of the issued shares in the Company to convene a meeting of the members (Article 20).
- 35.3 The PPM provides that "*Each Investment Company has a Board of Directors elected by the shareholders*".
- 35.4 Since the launch of the Structure and Petitioner's subscription the Company has never held a general meeting. It has indicated that does not intend to hold one even now, notwithstanding its parlous position and the impact of the Proposed Recapitalization on the Company's existing members.
- 35.5 By its attorneys' letters dated 8 and 24 September 2014 the Petitioner requested that the Directors:
- (a) convene a general meeting of the Company, so that the members may consider the apparently dire position of the Company, and also vote on resolutions to appoint new or additional directors;
 - (b) provide the Petitioner with the names and contact details of the other members of the Company; and/or
 - (c) alternatively, circulate to the members of the Company a letter from or on behalf of the Petitioner, asking that the members join with the Petitioner in requisitioning a general meeting for the above purposes.
- 35.6 The Directors have denied and/or failed to respond to those requests. By doing so, the Directors have (a) sought to render nugatory the Petitioner's (and the other members') right to convene a general meeting; and (b) further demonstrated that they are not focused on the best interests of the members of the Company.

36 By its attorneys' letters dated 8 and 24 September 2014, the Petitioner further asked whether other investors in the Companies had registered complaints with the Companies or Investcorp. The Directors and Investcorp have refused and/or failed to respond to that question.

Loss of Substratum

- 37 The Companies were incorporated for the sole and specific purpose of acting as investment vehicles in the Structure, and ultimately, holding an economic interest in the Hotel.
- 38 The Companies can no longer fulfil that, or any other, purpose. Based on the Companies' own assessment, they no longer have any material interest in the Hotel.
- 39 Alternatively, the Companies can no longer fulfil that or any other purpose in a way which is consistent with the members' reasonable expectations, based on the terms of the PPM. It would not have been in the reasonable contemplation of a member, based on the PPM, that Investcorp and the Directors would continue to manage the Companies in the present circumstances, where the Companies have lost the entirety of their net asset value.
- 40 The Proposed Recapitalization does not alter the position, including because it depends upon an unlawful redemption of the current members' shares in the Companies.

Need for an investigation

- 41 The matters set out above also establish the need for or the desirability of an independent investigation into the conduct of the Company's officers and service providers, both prior to the issuance of a materially misleading PPM, and since then, in circumstances where the whole of the assets of the Company have been lost. The current management of the Company is unable and unwilling to perform that investigation. The Petitioner is also unable to carry out that investigation, in circumstances where it has been denied access to information. Further, the Proposed Recapitalization is an attempt at a "whitewash".

Nomination of Joint Official Liquidators

- 42 The Petitioner nominates Kris Beighton and Alexander Lawson of KPMG, 2nd Floor, Century Yard, Cricket Square, Elgin Avenue, George Town, Grand Cayman, Cayman Islands for appointment as joint official liquidators of the Company (the "JOLs").
- 43 The JOLs meet the requirements prescribed in the *Insolvency Practitioner's Regulations 2008* (as amended) to act as joint official liquidators of the Company.

And your Petitioner humbly prays as follows:

- (1) The Company be wound up in accordance with the Companies Law on the ground that it is just and equitable that the Company be wound up.
- (2) Kris Beighton and Alexander Lawson of KPMG, 2nd Floor, Century Yard, Cricket Square, Elgin Avenue, George Town, Grand Cayman, Cayman Islands, be appointed as JOLs of the Company.
- (3) The JOLs not be required to give security for their appointment.
- (4) The JOLs have the power to act jointly and severally in their capacity as joint official liquidators of the Company.
- (5) The JOLs remuneration and expenses be paid out of the assets of the Company in accordance with Part III of the Insolvency Practitioner's Regulations 2008 (as amended) and CWR Order 20.
- (6) The JOLs 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 part I and II of the Third Schedule to the Law without further sanction of the Court or otherwise as the Court may direct.
- (7) The JOLs be at liberty to appoint counsel, attorneys 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 CWR Order 25.
- (8) The JOLs be at liberty to apply generally.
- (9) The costs of this Petition shall be paid out of the assets of the Company as an expense of the liquidation, to be taxed if not agreed.
- (10) Such further or other relief be granted as the Court deems appropriate.

AND your Petitioner will ever pray etc.

DATED this ^{22nd} day of *December* 2014

Maples of Calder

Maples and Calder

Attorneys-at-law for the Petitioner

NOTE: This Petition is intended to be served on the Company.

FILED by Maples and Calder, attorneys for the Petitioner, whose address for service is PO Box 309, Ugland House, Grand Cayman, KY1-1104, Cayman Islands. (Ref: JSE/AAP/694367-000001/34566771)

NOTICE OF HEARING

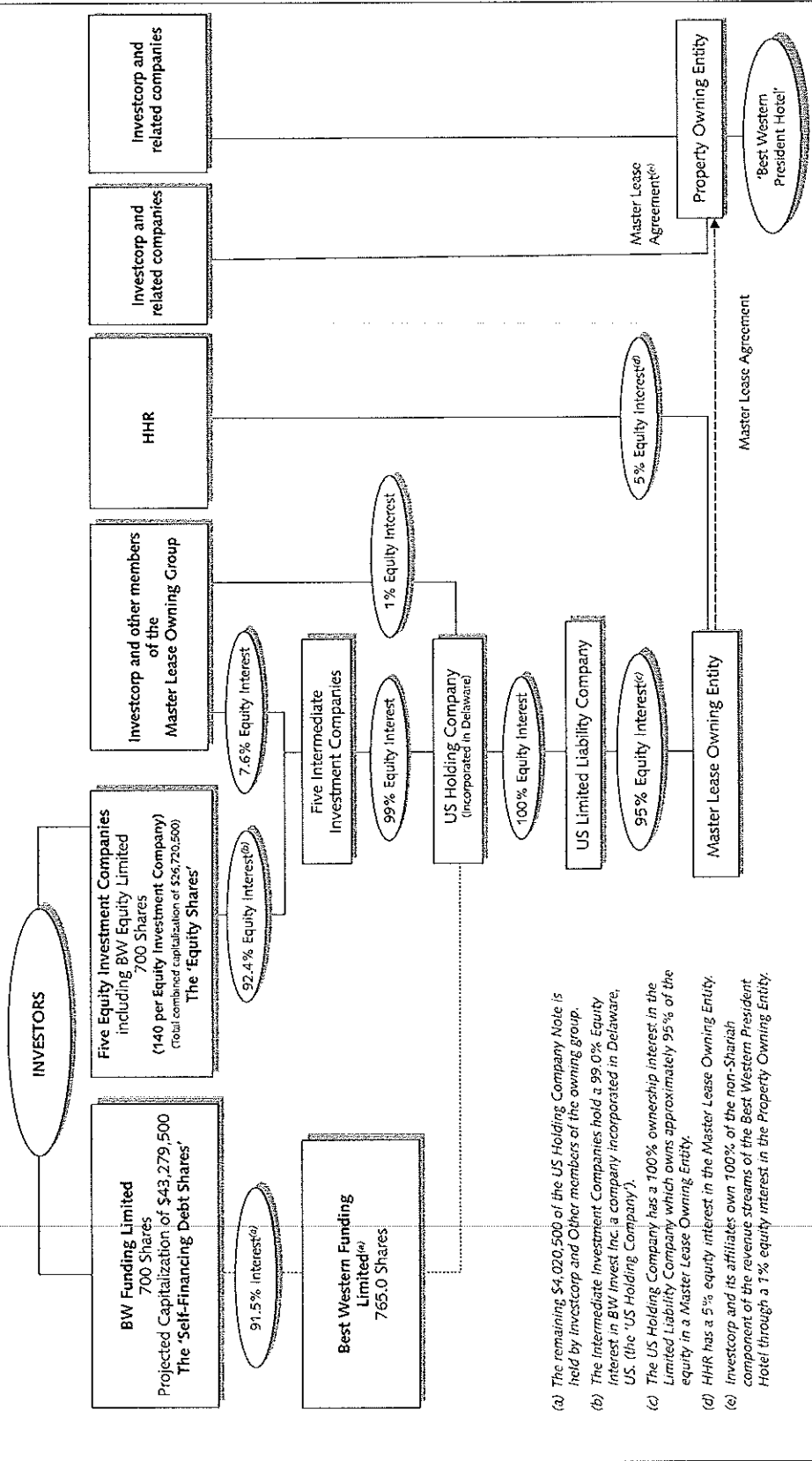
TAKE NOTICE THAT the hearing of this Petition will take place at the Law Courts, George Town, Grand Cayman, on _____ 2014 at _____ o'clock or as soon thereafter as the Petition can be heard.

Any correspondence or communication with the Court relating to the hearing of the 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.

**APPENDIX A
STRUCTURE DIAGRAM**

EXHIBIT 2

ANTICIPATED INVESTMENT STRUCTURE
(post acquisition of the Property)



(a) The remaining \$4,020,500 of the US Holding Company Note is held by Investcorp and other members of the owning group.
 (b) The Intermediate Investment Companies hold a 99.0% Equity Interest in BW Invest Inc, a company incorporated in Delaware, US. (the "US Holding Company").
 (c) The US Holding Company has a 100% ownership interest in the Limited Liability Company which owns approximately 95% of the equity in a Master Lease Owning Entity.
 (d) HHR has a 5% equity interest in the Master Lease Owning Entity.
 (e) Investcorp and its affiliates own 100% of the non-Shariah component of the revenue streams of the Best Western President Hotel through a 1% equity interest in the Property Owning Entity.