

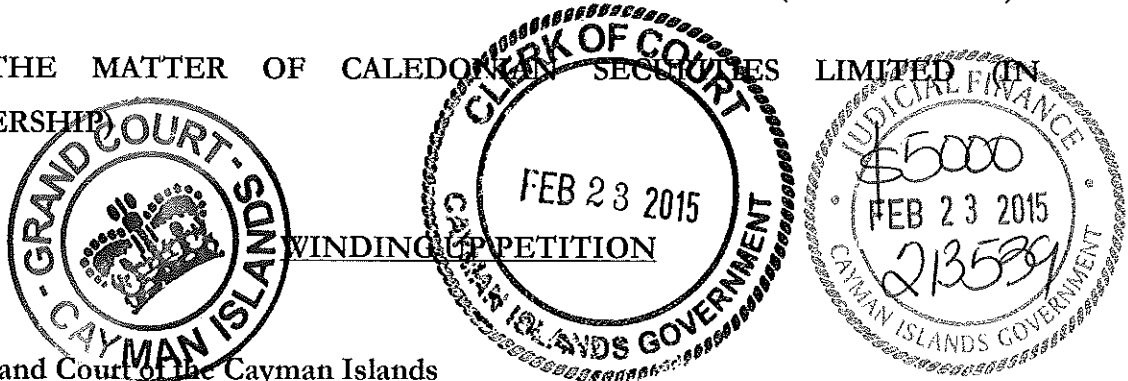
IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

CAUSE NO. FSD: ⁰⁰²⁶ OF 2015-[ASCJ]

IN THE MATTER OF THE COMPANIES LAW (2013 REVISION)

IN THE MATTER OF THE BANKS AND TRUST COMPANIES LAW (2013 REVISION)

AND IN THE MATTER OF CALEDONIAN SECURITIES LIMITED (IN
CONTROLLERSHIP)



TO: The Grand Court of the Cayman Islands

THE HUMBLE PETITION of the Cayman Islands Monetary Authority ("CIMA") of 80e Shedden Road, Elizabethan Square, PO Box 10052, Grand Cayman KY1-1001, Cayman Islands shows that:

- 1 The Caledonian Securities Limited ("CSL") was incorporated on 29 September 2011 in the Cayman Islands as an ordinary resident company limited by shares and was granted a full Securities Investment Business Licence ("the SIBL Licence") issued by CIMA on the 26 January 2012. CSL was established to provide broker dealer, securities manager, and securities advisor services.
- 2 At the time of licensing, CIMA's records reveal the registered office and headquarters of CSL being at Caledonian House, 69 Dr. Roy's Drive, GeorgeTown, Grand Cayman. However, on the 12 February 2015, the registered office was changed to the offices of Ernst & Young Ltd. at 62 Forum Lane, Camana Bay, Grand Cayman, Cayman Islands.
- 3 CSL is part of a larger group of companies. Within the organisational structure chart provided to CIMA, it is understood that CSL is 100% owned by Caledonian Global Financial Services ("CGFS") which is in turn 100% owned by New World Star Trust ("New Trust"), a Cayman Islands domiciled company for which Sentinel Trust Services Ltd

("Sentinel") acts as Trustee. Sentinel is also domiciled in the Cayman Islands with Mr. Neill Ebers, Mr. Dorenbush and Mr. McQuain appointed as its Directors. Sentinel is in turn 100% owned by Blackbriar Holdings Inc., a Cayman Islands domiciled company, with directors Ms. Marta Miraglia and Mr. Gordon Casey. The ultimate beneficial owner is Mr. Casey, domiciled in Curacao, who holds 100% interest in Blackbriar Holdings Inc.

4 Further, included within the group of companies is Caledonian Bank Limited ("CBL"), Caledonian Trust (Cayman) Limited ("CT"), Caledonian Directors Limited ("CD"), all of which collectively are noted as related entities regulated by CIMA and 100 % owned by CGFS.

5 CIMA therefore understands that the registered directors of CSL to be similar to that of CBL in the persons of Mr. Kobi Dorenbush, Mr. Barry McQuain, Mr. Devandranauth Ramesh Shastri, Mr. Paul Muspratt. Mr Nathaniel Orr-Depner is an additional director on record and Mr. Paul Byles (*who resigned as at 8 February 2015*).

Triggers to regulatory concerns:

6 As a result of preliminary discussions held on a regulator-to-regulator with the Securities Exchange Commission ("SEC") in July 2013, CIMA conducted a full scope onsite inspection of CSL with certain recommendations and requirements being made. Accordingly, since 2013, CSL fell under close scrutiny by CIMA in order to maintain a review of its regulatory concerns regarding compliance with regulatory laws and regulations.

7 As a result of an urgent meeting called by the management of CSL and CBL on *6 February 2015*, CIMA became aware that CSL and the CBL, along with Clear Water Securities Inc., Legacy Global Markets S.A., and Vermont Capital S.A. were named as defendants in a complaint filed with the United States District Court – Southern District of New York dated 5 February 2015 (the "Complaint") brought by the SEC for injunctive relief, disgorgement, penalties and other relief for violations of the Federal Securities Laws.

8 Further, the SEC Complaint alleges a number of breaches by the Defendants, of the US Securities Law and sought a number of remedies against them for the distributions of

unregistered penny stocks in four shell companies namely, (1) Swingplane Ventures Inc. (2) Goff Corp. (3) Norstra Energy Inc. and (4) Xumanii Inc. In addition, the SEC has sought to freeze the assets of the CBL in the United States of America ("USA").

9 Additionally, CIMA became aware that the SEC obtained a temporary restraining order ("TRO") in the amount of US\$76,677,852 against accounts held in the name of CBL, at the Northern Trust International Banking Corporation, USA. CBL acts as CSL's custodians and consequently, there are potential negative ramifications for the solvency and operations of both CSL and CBL as a going concern.

10 Thereafter, based upon correspondence received from the management of CSL and CBL *on 8 February 2015*, CIMA was made aware of matters arising regarding their potential insolvency and that CBL had proposed to begin selling its most liquid fixed income securities in the 'Held for Sale Pool' that total \$30M and would also begin selling up to \$83M in market value of the liquid fixed income securities and liquidate all GBP and EUR Bonds in a hope of garnering more liquid reserves.

11 However, on the 9 February 2015, CIMA was further advised by CBL (via email) that its customers had been notified that it has suspended the operation of all services with effect from 10:50 am that day. The suspension notably extended to accepting deposits and processing any and all withdrawals. This in turn led CIMA to believe that these events may inadvertently lead to a run on CBL and to further negatively affect the liquidity and solvency position of both CBL and CSL as they share the same management accounts.

12 CIMA also noticed from some of the documentation supplied to by the directors of CBL pursuant to CIMA's request, that between February 6, 2015 and February 9, 2015 (being dates that were subsequent to the filing of the SEC Complaint) that a number of attempts were made by at least one entity known to be owned and operated by one of the directors of CBL to wire transfer significant sums out money out of CBL to another local bank.

13 In light of the rapid and significant developments highlighted in paragraphs 6-11 above, CIMA formed the opinion that- CBL, as its licensee, is likely to become unable to meet its obligations as they fall due; and also that it is carrying on business in a manner detrimental to

the public interest, the interest of its depositors, or other creditors. CIMA therefore, formed the view that significant regulatory was warranted to protect the interests of all stakeholders.

Regulatory considerations:

14 CIMA's understanding is that the management and accounts of both the CBL and the CSL are shared and that it is apparent that the SEC's TRO "*inadvertently captures depositor monies which are held in an omnibus account with the Northern Trust in the USA.*"

15 Accordingly, CIMA's regulatory consideration was drawn to whether CSL appears likely to become unable to meet its obligations as they fall due, given that; (a) most of their readily realisable assets are located in the USA, (b) they are potentially insolvent in the face of the fast pace of withdrawals (c) operational issues becoming so great that they are unable to meet all depositor withdrawals and (d) the action plan presented on 9 February 2015 by management to suspend operations being performed on behalf of its clients in so far as those instructions related to transfers of monies or securities brokerage by CSL to other custodians and prepare to place CSL into liquidation.

16 The inescapable, yet reasonable conclusion drawn from these considerations and triggers was that it necessitated CIMA taking urgent regulatory enforcement action to ensure that an independent person be appointed to investigate CSLs' affairs and report to the CIMA in short order.

Regulatory enforcement actions:

17 Consequently, at around 9:30 am on 10 February 2015, the Executive Committee of the Board of Directors of CIMA resolved to exercised its powers under section 17(2)(viii) of the Securities and Investments Business Law (2013 Revision) ("the SIBL") to appoint Controllers to assume control of the affairs of CSL at its expense.

18 The appointment of Joint Controllers was taken pursuant to Section 17(2)(a) and (b) of the SIBL, as the most appropriate regulatory enforcement action in the circumstances and on the basis that CIMA was of the opinion, that CSL "*is or appears likely to become unable to meet its*



obligations as they fall due and is carrying on business in a manner detrimental to the public interest, the interest of its depositors, or of the beneficiaries of any trust, or other creditors.”

- 19 Accordingly, on 10 February 2015, Messrs Keiran Hutchinson and Claire Loebell of Ernst & Young Ltd. (“E&Y”) of 62 Forum Lane, Camana Bay, Grand Cayman, Cayman Islands were appointed as Joint Controllers of CSL (as well as CBL) (the “Joint Controllers”).
- 20 Also on 10 February 2015, and after the Joint Controllers had been appointed over CBL a, the sole shareholder of CB (that is, CGSF), passed resolutions placing CBL into voluntary liquidation under the Companies Law (2013 Revision) (the “Companies Law”) and appointing Gordon MacRae and Eleanor Fisher of Zolfo Cooper (Cayman) Limited as the joint voluntary liquidators of CBL (the “JVLs”).
- 21 On 11 February 2015, the JVLs filed a petition with the Grand Court of the Cayman Islands (the “Grand Court”) seeking an order that the liquidation of CBL continue under the supervision of the Grand Court. CIMA and the Controllers objected to the JVLs’ petition on the grounds that the Controllers had already been appointed over CBL.
- 22 On 12 February 2015, the Grand Court dismissed the JVLs’ petition and confirmed inter alia, that: (i) CIMA’s appointment of the Joint Controllers over CBL; (ii) that the JVLs have no power or control over the CBL; and (iii) all the powers over CBL rest with the Joint Controllers.
- 23 CIMA has therefore, proceeded with its appointment of and instructions to the Joint Controllers to take conduct of the affairs of CSL.
- 24 In compliance with obligations under the SIBL and given the urgency and sensitivity of the matters arising, the Joint Controllers were directed by the Grand Court to prepare and submit their first report to CIMA and to the Court within a time to be set by CIMA. In that regard, the time set by CIMA was that the report should be submitted within seven (7) days of their date of appointment.



Controllershship Interim Findings and Reports on CSL

25 An interim report was submitted on *14 February 2015* by the Joint Controllers to CIMA. In particular, the Joint Controllers note the following:

1. Whilst the Joint Controllers have only begun their investigations, they note that urgent issue have arisen in relation to what is required to best protect the assets of CSL, to protect creditors and stakeholders and allow CSL to deliver on it services to clients. In particular, given the nature of CSL's business and the likelihood that customer securities are trust assets which will need to e returned to customers, the clarification of CSL's obligations to customers is urgent.

2. Also given the cumulative effect of the following matters, it is recommended that CIMA petition the Court for CSL to be placed in Official Liquidation:
 - (1) CSL is dependent on CBL from a funding perspective, that the operations of all services of CBL remain suspended and that CBL acts as a custodian to clients;
 - (2) The directors of the CSL have advised that it has been loss making and that it had been their intention to close down CSL if the Controllershship had not intervened;
 - (3) The SEC \$76M claim is also a contingent claim and if taken into account significantly overwhelms the balance sheet of CSL making it significantly insolvent;
 - (4) Even a settlement of the SEC claim at a greatly reduced level still renders CSL insolvent;
 - (5) The shareholders of CSL resolved to place CSL into liquidation on 11 February and the directors thereof have subsequently refused to sign a declaration of solvency;



3. The Joint Controllers also found that given the analysis of the solvency of CSL (taking into account the substantial contingent claim filed by the SEC) CSL is at least of doubtful solvency if not insolvent on the basis that;
- (1) The shareholders resolved to place CSL into voluntary liquidation and the directors have had to subsequently refuse to sign any declaration as to solvency;
 - (2) The financial position of CSL, per the most recent management accounts dated 31 January 2015 reflected Total Assets of US\$1,469,179, Total Liabilities of US\$369,383 and Total Equity of US\$1,099,797. However, if the substantial contingent claim filed by the SEC are taken into account, this would overwhelm the balance sheet thereby making CSL significantly insolvent;
 - (3) There is grave risk of actions against the majority of the assets which are located in the USA (to include the amounts under the SEC's TRO) and noting the significant run on Bank deposits, which has already occurred, which may significantly affect CSL as it is dependent on CBL from a funding perspective;
 - (4) The protection of assets in the United States is critical to ensuring the equitable treatment of all creditors and depositors of CSL. The Controllers have been advised that whilst it is possible for Controllers to seek Chapter 15 protection in the United States, the standing of a controller before the US Courts is uncertain whilst the standing of a Court appointed Official Liquidator to apply for Chapter 15 recognition is not.
4. Accordingly, the Joint Controllers have recommended that- (1) Protective action is necessary to prevent actions against creditors in the USA and is best advanced by an Official Liquidator; and (2) CIMA should urgently present a winding up petition to the Grand Court for CSL to be placed into Official Liquidation



26 As a consequence, the Executive Committee of the Board of Directors of CIMA resolved pursuant to Section 17(6)(d) of the SIBL, at around 2:30pm on 16 February 2015, to revoke the licence of CSL and apply to the Grand Court for an order that CSL be forthwith wound up.

27 The revocation of the license is taken as effective concomitantly with the steps to be taken to appoint official liquidators in accordance with the provisions of the Companies Law (2013 Revision) relating to the winding up of a company.

Grounds upon which relief sought:

23. This winding up petition is made pursuant to section 94(4) of the Companies Law (2013 Revision) which states that a winding up petition may be presented by CIMA in respect of any company which is carrying on regulated business in the Islands upon the grounds that it is not duly licensed or registered to do so under the *regulatory laws* or for any other reason as provided under the regulatory laws or any other law. The SIBL is a regulatory law within the meaning of section 2 of the Monetary Authority Law (2013 Revision).

28 Therefore, in accordance with the provisions of the SIBL and, in particular, pursuant to section 17(6)(d) of SIBL, CIMA has the power upon the receipt of a report from its Controller under subsection (5) to revoke a licence and apply to the Grand Court for an order that the licensee be forthwith wound up by the Grand Court in which case the provisions of the Companies Law (2013 Revision) relating to the winding up of a company by that Court shall apply.

29 In that regard, CIMA's powers under the SIBL have been effectively invoked and the necessary resolutions passed accordingly.

30 There is sufficient material provided by the Joint Controllers report to ground CIMA's presentation of this winding up petition and for the relief sought and as prayer below.

31 The company has been given the opportunity to object to this petition and has indicated its consent/non-objection to it.



32 It is therefore respectfully submitted that CIMA has met the requirements under the Companies Law 2013 and the Companies Winding Up Rules (as amended) (“CWR”) for the granting of this petition.

Nomination of Joint Liquidators:

33 Mr. Kieran Hutchison and Ms. Claire Loebell of E&Y are nominated to be appointed as Joint Official Liquidators of CSL and have expressed their willingness and have consented to act.

34 As evidenced by their affidavits in accordance with the CWR, both nominees and E&Y are equipped in offering their services as qualified insolvency practitioners in compliance with the Insolvency Practitioners Regulations (as amended) and are thus able to progress the winding up of CSL in a timely manner.

35 Additionally, both nominees have already spent considerable time and incurred costs in familiarizing themselves with CSL and its correlation to CBL and other entities within the group structure, as well as with liaising with account holders and stakeholders, in their capacities as Joint Controllers. Hence, these nominees have carried out extensive preliminary investigations into the status of CSL in a relatively short time as evidenced by their interim report. Thus, respectfully, it is submitted that both nominees are best poised to continue to assume control over the affairs of CSL.

YOUR PETITIONER THEREFORE HUMBLY PRAYS as follows:

1. The CSL be wound up in accordance with the Companies Law (2013 Revision) (“the Companies Law”);
2. Keiran Hutchison and Claire Loebell of Ernst & Young Ltd. of 62 Forum Lane, Camana Bay, P.O. Box 510, Grand Cayman KY1-1106, Cayman Islands be appointed Joint Official Liquidators of the Company (“the Joint Official Liquidators” or “JOL”);
3. The Joint Official Liquidators shall not be required to give security for their appointment;



4. The Joint Official Liquidators be authorised to act jointly and severally and 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 within and outside the Cayman Islands specified in Part I and Part II of the Third Schedule to the Companies Law without further sanction or intervention of the Court, namely the powers:

- (a) to bring or defend any action or other legal proceeding in the name and on behalf of the Company including the taking of such steps as the Joint Official Liquidators may consider appropriate in respect of the following legal proceedings, either in their own name for and on behalf of the Company, or in the name of the Company on its behalf;
 - (i) to defend in the name of the Company the proceedings entitled "Securities and Exchange Commission v Caledonian Bank Ltd and others; 15 CV 00894" proceeding in the United States District Court for the Southern District of New York;
 - (ii) to commence proceedings under Chapter 15 of the United States Bankruptcy Code or such other bankruptcy proceeding in the United States as the Joint Official Liquidators may consider necessary and appropriate;
 - (iii) to commence any other winding up, bankruptcy and/or recognition proceedings in the United Kingdom, Australia, Switzerland and any other jurisdiction where the Company has assets as the Joint Official Liquidators may consider necessary and appropriate;
- (b) to carry on the business of the Company so far as may be necessary for its beneficial winding up;
- (c) to dispose of any property of the Company to a person who is or was related to the Company;
- (d) to pay any class of creditors in full;
- (e) to make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging themselves to have any claim (present or future, certain or contingent, ascertained or sounding only in damages) against the Company or for which the Company may be rendered liable;



- (f) to compromise on such terms as may be agreed all debts and liabilities capable of resulting in debts, and all claims (present or future, certain or contingent, ascertained or sounding only in damages) subsisting, or supposed to subsist between the Company and a contributory or alleged contributory or other debtor or person apprehending liability to the Company;
- (g) to deal with all questions in any way relating to or affecting the assets or the winding up of the Company, to take any security for the discharge of any such call, debt, liability or claim and to give a complete discharge in respect of it;
- (h) to sell any of the Company's property by public auction or private contract with power to transfer the whole of it to any person or to sell the same in parcels;
- (i) to raise or borrow money and grant securities therefor over the property of the Company;
- (j) to engage staff (whether or not as employees of the Company) to assist them in the performance of their functions;
- (k) to engage attorneys and other professionally qualified persons to assist them in the performance of their functions;
- (l) to take possession of, collect and get in the property of the Company and for that purpose to take all such proceedings as they consider necessary;
- (m) to do all acts and execute, in the name and on behalf of the Company, all deeds, receipts and other documents and for that purpose to use, when necessary, the Company seal;
- (n) to prove, rank and claim in the bankruptcy, insolvency or sequestration of any contributory for any balance against his estate, and to receive dividends in the bankruptcy, insolvency or sequestration in respect of that balance, as a separate debt due from the bankrupt or insolvent and rateably with the other separate creditors;
- (o) to draw, accept, make and indorse any bill of exchange or promissory note in the name and on behalf of the Company, with the same effect with the respect of the Company's



liability as if the bill or note had been drawn, accepted, made or indorsed by or on behalf of the Company in the course of its business;

- (p) to promote a scheme of arrangement pursuant to section 86 of the Companies Law;
 - (q) to convene meetings of creditors and contributories; and
 - (r) to do all other things incidental to the exercise of their powers;
5. The Joint Official Liquidators' remuneration and expenses be paid out of the assets of the Company in accordance with section 109 of the Companies Law, the Insolvency Practitioner's Regulations 2008 (as amended) and Order 20 of The Companies Winding Up Rules 2008 (as amended);
 6. The Joint Official Liquidators be at liberty to meet all disbursements reasonably incurred with the performance of their functions;
 7. The Joint Official Liquidators shall have the authority to appoint Cayman Islands attorneys, United States attorneys, English solicitors and counsel, Australian solicitors and counsel, and Swiss attorneys, and any other jurisdiction where the Company has or may have assets, as they may consider necessary to advise and assist them in the performance of their duties and to remunerate them for their reasonable fees and expenses out of the assets of the Company as an expense of the liquidation
 8. The Joint Official Liquidators be at liberty to and do pay their agents, employees, attorneys, solicitors and whomsoever else they may employ or instruct, remuneration and costs, and for the avoidance of doubt, all such payments shall be made as and when they fall due out of the assets of the Company as expenses of the winding up;
 9. No suit, action or other proceedings, including criminal proceedings, shall be proceeded with or commenced against the Company except with the leave of the Court pursuant to section 97 of the Companies Law;



10. No disposition of the Company's property by or with the authority of the Joint Official Liquidators in the carrying out of their duties and functions and the exercise of their powers under this Order shall be avoided by virtue of section 99 of the Companies Law;
11. Any act required or authorised to be done by the Joint Official Liquidators may be done by any one of them;
12. The Joint Official Liquidators provide to the Petitioner copies of all reports filed with this Court; and
13. The Petitioner's costs of and incidental to the Petition be paid from the assets of the Company, to be taxed on the indemnity basis if not agreed.
14. Such other orders and directions may be made as the Court thinks fit.

Dated the 17th day of February 2015



CAYMAN ISLANDS MONETARY AUTHORITY

NOTE: It is intended to serve this Petition on the Joint Controllers, Shareholders and Directors of CSL

NOTICE OF HEARING

TAKE NOTICE THAT the hearing of this Petition will take place at the Law Courts George Town, Grand Cayman on _____ day of _____ 2015 at _____ a.m./p.m.

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 P.O. Box 495, Grand Cayman, KY1-1106, telephone 345-949-4296.

