

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
FINANCIAL SERVICES DIVISION

CAUSE NO. FSD 0050 OF 2015

IN THE MATTER OF SECTION 124 OF THE COMPANIES LAW (2013 REVISION)

AND IN THE MATTER OF CALEDONIAN GROUP SERVICES LIMITED (IN VOLUNTARY LIQUIDATION)

PETITION

To: The Grand Court of the Cayman Islands (the "Court")

The humble petition of Keiran Hutchison and Claire Loebell of Ernst & Young Ltd., 62 Forum Lane, Camana Bay, PO Box 510, George Town, Grand Cayman, KY1-1106, Cayman Islands (the "Petitioners"), shows that:

**Particulars of Incorporation**

1. Caledonian Group Services Limited (in Voluntary Liquidation) (the "**Company**") is an exempted company with limited liability incorporated on 11 March 1974 and organised pursuant to the Companies Law of the Cayman Islands (as revised). The registration number of the Company issued by the Registrar of Companies is 9740.
2. The registered office of the Company was, prior to the commencement of the voluntary liquidation of the Company, at Caledonian House, 69 Dr. Roy's Drive, George Town, Grand Cayman, KY1-1102, Cayman Islands. The registered office of the company is now c/o Ernst & Young Ltd., 62 Forum Lane, Camana Bay, PO Box 510, George Town, Grand Cayman, KY1-1106, Cayman Islands.
3. The most recent version of the Memorandum and Articles of Association (the "**Articles**") were adopted by the Company on 24 September 2007. The objects for which the Company was established are unrestricted.
4. The Company has an authorised share capital of US\$50,000 divided into 50,000 shares of a nominal or par value of US\$1.00 each. All of the Shares in issue by the Company ("**Shares**") are held by the immediate parent of the Company (the "**Shareholder**").

## The business of the Company

5. The Company sits within a corporate structure which for the purposes of convenience, is referred to in this Petition as the "**Caledonian Group**". The Caledonian Group is comprised principally of Cayman Islands-registered companies concerned with the provision of financial services within and outside the Cayman Islands. The Company's function is to provide business and corporate support services to other members of the Caledonian Group.

## Commencement of the voluntary liquidation of the Company

6. Section 116(c) of the Companies Law (2013 Revision) (the "**Law**") provides as follows:

*"A company incorporated and registered under this Law [...] may be wound up voluntarily-*

*[...]*

*(c) if the company resolves by special resolution that it be wound up voluntarily;"*

7. A "*Special Resolution*" is defined in Article 1 of the Articles as:

*"[having] the same meaning as in the Statute, and includes a unanimous written resolution"*

8. The effect of this is to incorporate the definition of a "*Special Resolution*" contained in section 60 of the Law, which provides that:

*"A resolution is a special resolution when-*

*[...]*

*(b) if so authorised by [the Articles], it has been approved in writing by all of the members entitled to vote at a general meeting of the company in one or more instruments each signed by one or more of the members aforesaid, and the effective date of the special resolution so adopted shall be the date on which the instrument or the last of such instruments, if more than one, is executed."*

9. On 24 March 2015:

- (a) the Shareholder was the sole registered holder of all of the Shares;

- (b) the Shareholder was therefore the only entity entitled to vote at a general meeting of the Company; and
  - (c) in its capacity as the sole registered holder of all of the Shares, the Shareholder executed written resolutions that resolved that:
    - (i) the Company be wound up voluntarily, which was passed as a special resolution; and
    - (ii) the Petitioners be appointed joint voluntary liquidators of the Company, which was passed as an ordinary resolution.
10. In the premises:
- (a) the Company duly resolved by special resolution that it be wound up voluntarily pursuant to section 116(c) of the Law; and
  - (b) the voluntary winding up of the Company is deemed to have commenced on 24 March 2015 pursuant to section 117(1)(a) of the Law.
11. The Petitioners filed a notice of winding up and consent to act as the joint voluntary liquidators of the Company with the Registrar of Companies on 25 March 2015 in accordance with sections 123(1)(a) and 123(1)(b) of the Law and Order 13, rules 2(a) and 2(b) of The Companies Winding Up Rules 2008 (as amended) (the "CWR"). Accordingly, the Petitioners' appointment took effect on 25 March 2015 pursuant to section 119(3) of the Law and Order 13, rule 3(2) of the CWR.
12. The Petitioners are also currently appointed as the joint official liquidators of two other members of the Caledonian Group:
- (a) Caledonian Bank Limited (in Official Liquidation) ("CBL"); and
  - (b) Caledonian Securities Limited (in Official Liquidation) ("CSL"),
- pursuant to two Orders of the Court dated 23 February 2015.

**Declaration of solvency**

13. As at the date of this Petition, the Petitioners have not received an executed declaration of solvency from any of the current directors of the Company (the "Directors") in the form

required by section 124(2) of the Law and Order 14, rule 1 of the CWR (a "**Declaration of Solvency**"), nor, to the best of the knowledge of the Petitioners, have any of the Directors filed an executed Declaration of Solvency with the Registrar of Companies in accordance with section 123(1)(c) of the Law and Order 13, rule 2(2) of the CWR.

14. The Petitioners sent an email to each of the Directors on 30 March 2015 inquiring as to whether they would be providing an executed Declaration of Solvency. As of the date of the Petition, the Petitioners have received confirmation from two out of the three Directors that they will not provide an executed Declaration of Solvency.

#### **Requirement for Court supervision**

15. Under section 124(1) of the Law, the Petitioners are required to present a petition seeking that the winding up of the Company continue under the supervision of the Court if a Declaration of Solvency executed by all of the Directors is not provided within 28 days of the commencement of voluntary liquidation.
16. Although 28 days have not elapsed as at the date of this Petition, two out of three Directors have confirmed that they will not provide an executed Declaration of Solvency. In these circumstances, the Petitioners consider it prudent to now seek that the winding up of the Company continue under the supervision of the Court, rather than wait for 28 days to elapse.

#### **Consent to Appointment as Joint Official Liquidators**

17. Keiran Hutchison is a qualified insolvency practitioner (as that term is defined in section 89 of the Law) and consents to his appointment as a joint official liquidator of the Company.
18. Claire Loebell is a qualified insolvency practitioner (as that term is defined in section 89 of the Law) and consents to her appointment as a joint official liquidator of the Company.

#### **Your Petitioners therefore humbly pray that:**

1. The winding up of the Company continue under the supervision of the Court.
2. Keiran Hutchison and Claire Loebell of Ernst & Young Ltd., 62 Forum Lane, Camana Bay, PO Box 510, George Town, Grand Cayman KY1-1106, Cayman Islands be appointed as joint official liquidators of the Company (the "**JOLs**").

3. The JOLs shall not be required to give security for their appointment.
4. The JOLs be authorised to act jointly and severally and exercise any of the following powers within and outside the Cayman Islands specified in Part I and Part II of the Third Schedule to the 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;
  - (b) to carry on the business of the Company so far as may be necessary for its beneficial winding up;
  - (c) to engage staff (whether or not as employees of the Company) to assist them in the performance of their functions;
  - (d) to engage attorneys and other professionally qualified persons to assist them in the performance of their functions;
  - (e) 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;
  - (f) 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;
  - (g) 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;
  - (h) 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;
  - (i) to promote a scheme of arrangement pursuant to section 86 of the Law;
  - (j) to convene meetings of creditors and contributories; and

- (k) to do all other things incidental to the exercise of their powers.
5. The JOLs' remuneration and expenses be paid out of the assets of the Company in accordance with section 109 of the Law, the Insolvency Practitioner's Regulations 2008 (as amended) and Order 20 of the CWR.
  6. The JOLs be at liberty to meet all disbursements reasonably incurred with the performance of their functions.
  7. The JOLs shall have the authority to appoint Cayman Islands attorneys, and if necessary, legal representation in 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 JOLs 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 leave of the Court pursuant to section 97 of the Law.
  10. No disposition of the Company's property by or with the authority of the JOLs in the carrying out of their duties and functions and the exercise of their powers shall be avoided by virtue of section 99 of the Law.
  11. Any act required or authorised to be done by the JOLs may be done by any one of them.
  12. The Petitioners' costs of and incidental to this Petition be paid from the assets of the Company, to be taxed on the indemnity basis if not agreed.

13. Such further or other orders or directions as the Court thinks fit.

AND your Petitioners will ever pray etc.

DATED the 31<sup>ST</sup> day of MARCH 2015

*Walkers*

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**WALKERS**

Attorneys-at-Law for the Petitioners

**NOTE:** This Petition will be served in accordance with any order of the Court requiring the Petitioners to do so.

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

**NOTICE OF HEARING**

**TAKE NOTICE THAT** the hearing of this petition will take place at the Law Courts, George Town, Grand Cayman, Cayman Islands on the        day of                                2015 at

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.