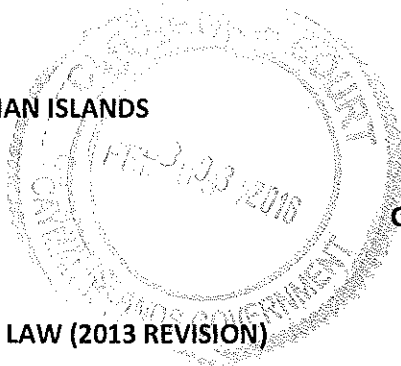


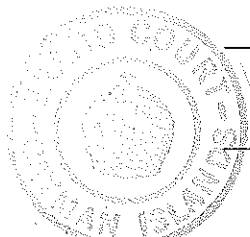
IN THE GRAND COURT OF THE CAYMAN ISLANDS  
FINANCIAL SERVICES DIVISION



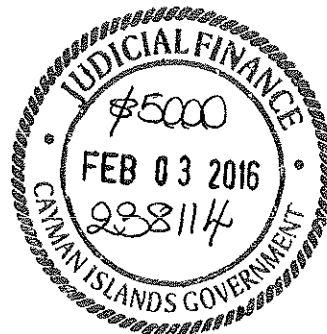
CAUSE NO. FSD 008 OF 2016 ( )

IN THE MATTER OF THE COMPANIES LAW (2013 REVISION)

AND IN THE MATTER OF PHIGOLD LIMITED



WINDING UP PETITION



TO: THE GRAND COURT OF THE CAYMAN ISLANDS

The humble petition of Fladgate LLP of 16 Great Queen Street, London, WC2B 5DG, United Kingdom  
SHOWS THAT:

1. The Petitioner seeks an order for the winding up of Phigold Limited (the *Company*) pursuant to Section 92(d) of the Companies Law (2013 Revision) (the *Companies Law*) on the basis that the Company is unable to pay its debts as they fall due.

**BACKGROUND**

2. The Company was incorporated on 20 October 2010 in the Cayman Islands as an exempted company limited by shares with registered number 246747.
3. The Company's registered office is situated at Collas Crill Corporate Services Limited, PO Box 709 Floor 2, Willow House, Cricket Square, Grand Cayman, KY1-1107, Cayman Islands.
4. In or around October 2010 and thereafter Fladgate LLP of 16 Great Queen Street, London, WC2B 5DG (the *Petitioner*) was engaged by Phigold plc to advise in respect of matters relating to the incorporation of the Company as a holding company for Phigold plc and subsequently provided advice to the Company on issuing shares in the Company to Atok-Big Wedge Co. Inc. (*Atok*), a Company registered in the Philippines. Subsequent to that the Petitioner also rendered advice to the

Company and its shareholders in relation to a transaction pursuant to which Atok's resulting aggregate shareholding in the Company's enlarged share capital would be 60 per cent.

5. By an engagement letter dated 3 May 2011 and addressed to a Mr Mullins of the Company at its then registered address at Zephyr House, George Town, Grand Cayman the Petitioner recorded the engagement and the Company's instructions. Under the heading "*Fees*" the engagement letter referred to and incorporated paragraphs 6 and 7 of the Petitioner's terms of business effective October 2010 (*Terms and Conditions*), a copy of which was enclosed with the letter. By paragraph 7.1 of the Terms and Conditions it was provided that the Petitioner's account was due for payment within one month of delivery unless otherwise agreed with the Company.
6. The Petitioner provided the services as recorded in the engagement letter and issued invoices to the Company on 22 June 2011 and 12 March 2013 in the total amount of £92,540.33. The Company made a payment of £16,720.45 on 20 March 2013 but no further payments were made.
7. On 10 September 2013, the Petitioner wrote to the Company to inform it that the total amount of £76,498.94 was due and payable by the Company to the Petitioner and indicated that the matter had been referred to the Petitioner's internal debt recovery department. The Petitioner further advised in this correspondence that they were entitled to charge interest on all sums outstanding in accordance with the Terms and Conditions at the rate of 8% per annum which continues to accrue on the amounts owing.
8. On 1 October 2013, Mr David Thompson, the Finance Director and Secretary of the Company, advised Anne Brown of the Petitioner by email that the Company had obtained several short-term financings after an aborted effort to list the Company which left the Company with a substantial debt. Mr Thompson noted that they were refinancing the Company and intended to start a payment schedule to pay the Petitioner.
9. On 9 October 2013, the Company proposed to pay the Petitioner £2,000.00 in monthly instalments until the debt was paid in full. On 17 October 2013, this offer was rejected by the Petitioner and a counter-offer was made to pay in monthly instalments of £3,500.00 commencing 24 October 2013.
10. On 17 October 2013, the Company advised that it could only meet the Petitioner's requirements if they were to pay the first instalment due on 24 November 2013 to coincide with the Company's prospective fund raising. This was rejected by the Petitioner but a further arrangement was agreed

which permitted the Company to pay the first two instalments totalling £7,000.00 on 24 November and £3,500.00 per month thereafter until the debt was paid in full.

11. On 26 November 2013, the Petitioner advised the Company that none of the instalments had been received and that the Company had failed to enter into a suitable financial arrangement with the Company. Mr Thompson responded to this email indicating that the external funding that the Company was anticipating had taken longer than expected and that the Company expected that they would receive the funds within another 7 days.
12. On 27 November 2013, the Petitioner advised the Company that this arrangement was unacceptable and that they would proceed with debt recovery action.

#### **INSOLVENCY OF THE COMPANY**

13. On 10 February 2015 the Petitioner served a statutory demand on the Company pursuant to section 93(a) of the Companies Law (2013 Revision) (the *Companies Law*) requesting payment of the respective amounts due and owing to the Petitioner within 21 days (the *Statutory Demand*). As at 22 January 2015, being the date on which the Petitioner executed the Statutory Demand, the total amount due and owing to the Petitioner was the sum of £89,665.95; as at 21 January 2016, this amount has increased to £95,770.23 (the *Outstanding Debt*) and continues to accrue interest in accordance with the Petitioner's terms and conditions at the rate of 8% per annum and at the daily rate of £16.77.
14. As at the date of this Petition (being a date that is more than 21 days following the service of the Statutory Demand on the Company):
  - (a) the Company has paid none of the Outstanding Debt due to the Petitioner;
  - (b) the Company has not disputed the Outstanding Debt; and
  - (c) the Outstanding Debt remains unsatisfied, due and immediately payable in full to the Petitioner.
15. The Petitioner, as a creditor of the Company in the amount of the Outstanding Debt, presents this Petition pursuant to the Companies Law on the grounds that:

- (a) the Company is unable to pay its debts by operation of section 93(a) of the Companies Law;  
and
- (b) further, or in the alternative, pursuant to section 92(d) of the Companies Law the Company is  
unable to pay its debts in any event and is insolvent.

16. In the circumstances, the Petitioners seek an order from this Honourable Court that the Company be wound up and, for this purpose the Petitioners nominate Michael Pearson and Andrew Childe of Fund Solutions Services Limited, 10 Market Street #769, Camana Bay, Grand Cayman, KY1-9006, Cayman Islands to be joint official liquidators (*JOLs*) of the Company.

**YOUR PETITIONERS THEREFORE HUMBLY PRAY THAT:**

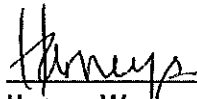
- (1) The Company be wound up in accordance with the Companies Law.
- (2) In that event:
  - a) Michael Pearson and Andrew Childe of Fund Solutions Services Limited, 10 Market Street #769, Camana Bay, Grand Cayman, KY1-9006, Cayman Islands be appointed as JOLs of the Company;
  - b) The JOLs shall not be required to give security for their appointment;
  - c) The JOLs shall be authorised to act jointly and severally;
  - d) The JOLs are hereby authorised to exercise any of the powers conferred on them by the Court pursuant to Section 110(2) and Parts I and II of the Third Schedule of the Companies Law without the further sanction of the Court;
  - e) The JOLs are hereby authorised to carry out any act or exercise any power considered by them to be necessary or desirable in connection with the liquidation of the Company and the winding-up of its affairs and to prevent the dissipation of the assets of the Company in any jurisdiction;
  - f) No suit, action or other proceeding shall be proceeded with or commenced against the Company except with the leave of the Court and subject to such terms as the Court may impose;

- g) No disposition of the property of the Company by or with the authority of the JOLs in carrying out their duties and functions and exercise of their powers under this Order shall be voided by virtue of Section 99 of the Companies Law;
- h) The JOLs be at liberty to appoint counsel, attorneys, and/or any other 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 and on such terms as they may think proper and to remunerate them out of the assets of the Company;
- i) Such further and/or other relief as this Honourable Court deems appropriate.

(3) The costs of the Petitioner of and incidental to the Petition be paid out of the assets of the Company as an expense of the liquidation.

AND your Petitioner will ever pray etc.

Dated this 21st day of January 2016



\_\_\_\_\_  
Harney Westwood & Riegels  
Attorneys-at-Law for the Petitioner

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

**THIS PETITION** was presented by Harney Westwood & Riegels, Attorneys-at-Law for the Company, whose address for service is 4th Floor, Harbour Place, 103 South Church Street, PO Box 10240, Grand Cayman KY1-1002, Cayman Islands (Ref:DCB/SYN/042445.0035).

**NOTICE OF HEARING**

TAKE NOTICE THAT the hearing of this Petition will take place at the Law Courts, George Town, Grand Cayman on \_\_\_\_\_ at \_\_\_\_\_ am/pm.

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 +1 345 949 4296.