IN THE GRAND COURT OF THE CAYMAN ISLANDS

FINANCIAL SERVICES DIVISION

CAUSE NO: FSD 24 OF 2018 ( )

IN THE MATTER OF THE COMPANIES LAW (2016 REVISION)

AND IN THE MATTER OF WORLD PROPERTIES LTD

**WINDING UP PETITION**

**To: The Grand Court**

**THE HUMBLE PETITION** of Sheila Mary Crombie of 80 Douglas Park Manor SE Calgary, Alberta, T2Z 2L1, Canada, Lorree Grace Reid of 222 Jarvis Bay Drive, Jarvis Bay, Alberta T4S 1R8, Canada and Edward Lawrence Morrisroe of PO Box 182, Dillon, Montana 59725-0182, USA each a shareholder of the above-named World Properties Ltd, shows as follows:

## A. THE COMPANY: INCORPORATION, MEMBERS AND OFFICERS

1. World Properties Ltd (the **Company**) is a non-resident company incorporated with limited liability on 10 December 1984 under and pursuant to the provisions of the Cayman Islands Companies Law, with registered number 21590. The Company was registered on 12 December 1984.

2. The registered office of the Company is situated at Campbells Corporate Services Limited, Floor 4, Willow House, Cricket Square, George Town, Grand Cayman, Cayman Islands.

3. The Company has an authorised share capital of US$900,000.00 divided into 900,000 shares of US$1.00 each and issued share capital of US$900,000.

4. The current beneficial owners of the Company are:

   4.1 Edward Lawrence Morrisroe, born 18 June 1948 (**Edward**);

   4.2 Lorree Grace Morrisroe (now Reid), born 21 March 1950 (**Lorree**);

   4.3 Sheila Mary Morrisroe (now Crombie), born 12 September 1951 (**Sheila**);

4.4 Lorna Margaret Morrisroe (now Sister Mary Matthew), born 10 April 1953;

4.5 Sharon Jane Morrisroe, born 13 July 1955 (**Sharon**);

4.6 Colleen Ann Morrisroe (now Finn), born 1 March 1958 (**Colleen**);

4.7 Norine Jean Morrisroe (now Chornell), born 4 October 1960 (**Norine**); and

4.8 James Joseph Morrisroe, born 12 May 1966 (**James**);

(all together the **Shareholders**)

5. All of the above hold, directly or indirectly, 75,000 shares each except for James, who holds 375,000 shares. The shareholdings were initially held through a nominee agreement with Campbell Nominees Limited but this no longer applies in the case of Petitioners, who have been registered shareholders of the Company since at least 22 September 2016. The other shares remain held through Campbell Nominees Limited.

6. The directors of the Company are Colleen and Norine.

7. The Company President is Colleen and the Secretary is Norine.

## B. THE PETITIONERS

8. The Petitioners are Canadian nationals. Lorree and Sheila live in Canada, while Edward lives in the USA. Individually the Petitioners hold 75,000 shares each in the Company, which amounts to a 25% shareholding in aggregate.

## C. THE COMPANY: ORIGIN AND PURPOSE

9. The Company was formed in 1984 by Lawrence Morrisroe (**Lawrence**) for the purpose of holding his family's investments and assets. The Company was part of Lawrence's long term inheritance planning. The Company is not an operating company but is a vehicle for holding and maintaining assets for the benefit of the family. In or around 1986 Colleen and Norine were appointed as directors of the Company. Initially the shareholding of the Company was held as to 300,000 shares (33.3%) by Grace Morrisroe (**Grace**), wife of Lawrence and 75,000 shares (8.3%) by each of the individuals listed at paragraph 4 above, who are all children of Grace and Lawrence (the **Family**). The arrangement was put in place by Lawrence to ensure that Grace was provided for during her lifetime and that the wealth would pass to their children with efficient tax planning.

10. Lawrence passed away on 9 August 2009. James, Colleen and Norine were the executors of his will. In or around 2005 Grace indicated to some of the Family that she was leaving

her shareholding in the Company to James. Grace passed away on 13 December 2015. James, Colleen and Norine were the executors of her will, which gave effect to that intention and resulted in James's beneficial interest increasing to 375,000 shares, meaning that he became the largest, but still minority, beneficial owner.

11. The Family wished for Grace to enjoy a long and comfortable life, enjoying use of the assets held by the Company and income therefrom to facilitate this. However, it was not the intention of the Family for their inheritance to remain in the Company for perpetuity, instead that once Grace died, the Family should be able to realise or distribute the assets of the Company in order for each shareholder to satisfy their differing needs.

## D. THE COMPANY: ASSETS

12. By reason of the facts set out in section E below, relating to the refusal of the directors to permit the Petitioners access to any documents or accounting records relating to the financial affairs of the Company, the Petitioners' information is necessarily incomplete, but they believe that the primary assets of the Company include or but for the breaches of duty set out below would include:

    12.1 Receivables due from subsidiary companies;

    12.2 The entire issued share capital in Burdett Properties Ltd (**Burdett**), a company incorporated in British Columbia on 1 November 1984 with incorporation number BC0284533. The directors of Burdett are recorded as Colleen and Norine, with Colleen also being recorded as the President and Norine recorded as the Secretary. The Petitioners have not had updated information in relation to Burdett since 2009 but in 2009 believe that the primary assets of Burdett included:

        12.2.1 Investments in public securities that were valued at US$885,000 in 2009;

        12.2.2 A property known as Zeus Acres, consisting of a residential home and adjacent property totaling 111 acres;

        12.2.3 A property known as Sylvan Lake, consisting of a cottage and adjacent undeveloped lot estimated to be worth $2.5 to $2.7m;

        12.2.4 A property known as Barnston Island, consisting of a 115 acre farm property located on an island in the Fraser River near Surrey, Vancouver, British Columbia (the **Barnston Island Property**);

12.2.5 A receivable due from Xxcel Technologies Ltd (**Xxcel**) of US$635,000 plus interest;

12.2.6 A receivable due from Can-K Artificial Lift Systems Inc (**Can-K**) of US$2,596,000;

12.2.7 40% of the issued share capital in Can-K;

12.2.8 A receivable due from Colleen of $146,000 that was advanced as a loan for her house;

12.2.9 Beneficial title to the entire issued share capital in Willowbrook Limited (**Willowbrook**), a company incorporated in the Cayman Islands on 30 September 1991 and registered in the Cayman Islands on 2 October 1991. The legal title to Willowbrook's share capital is held by Campbell Nominees Limited on trust for Burdett. The register of officers shows Campbells Secretaries Limited as the secretary and, in 2012 showed Sharon as the sole director and on 21 July 2010 sought to be removed from the register. Sharon has indicated that she has not consented to act as a director and on 13 February 2012 the shareholders of the Company passed a resolution purporting to record that Sharon was no longer a director of Willowbrook and that Grace be appointed as director of Willowbrook. The Petitioners have been refused access to any documents, accounting records or account statements for Willowbrook but believe that it received substantial funds from the sale of 90 acres of land in the Cayman Islands;

12.3 Loto Development Inc (**Loto**), a company incorporated in Delaware USA, on 5 August 1985. Colleen and Norine are directors of Loto, with Colleen also being recorded as the President and Norine recorded as the Secretary. The Petitioners have not had updated information in relation to Loto since 2010 but based on the US tax return filings for 30 September 2010 believe that the primary assets of Loto in 2010 included:

12.3.1 A farm in Kentucky (USA) 10 miles east of Paducah, Kentucky, rented out for US$40,000 per year. The farm was purchased for US$400,000 and consists of approximately 1,200 acres consisting of 800 cleared acres and 400 treed acres;

12.3.2 A residence a 3037 Pier Harbor Drive, Las Vegas. This residence was purchased in 1995 for US$232,000;

12.3.3 10 lots in a recreational trailer park called Happy Hollow, Kentucky;

12.3.4 320 acres of land in Fox Hills, Carrollton County, Vevay, Indiana is believed to have been sold before 2009 but was still recorded on the financial statements in 2009;

12.3.5 A US$202,000 receivable due from Xxcel.

## E. BREAKDOWN IN TRUST AND CONFIDENCE

13. For the reasons set out below, the Petitioners have lost trust and confidence in Colleen and Norine as directors of the Company.

14. The Petitioners have been excluded from detailed financial information, and since 2012 any financial information, in relation to the Company and its subsidiaries and there has been a complete breakdown in trust and confidence in Colleen and Norine as directors of the Company. The Petitioners' legitimate expectations ultimately to receive distributions from the Company, and their share of the Family assets following the death of Grace have been disregarded. All requests for meetings of the shareholders of the Company to discuss its future have been disregarded by the directors.

15. The Company has never declared or paid any dividends. Although it is not an operating company, the limited information that the Petitioners have been able to obtain show that the Company has been operating at a loss for 31 of the 32 years. These losses appear to be the result either of mismanagement or of willful steps that Colleen and Norine have taken for their own personal benefit, or the benefit of James, in breach of their fiduciary duties to the Company, resulting in a diminution of the available assets for distribution to all other Shareholders.

16. These steps and examples of mismanagement include:

16.1 Between 1992 and 1997 Loto and Burdett made loans totaling US$850,000 to Xxcel. No interest was paid on these loans and, by 2010 they had been written off entirely. No interest was ever received.

16.2 In 2015 Colleen procured that Burdett write off her housing loan of US$146,000;

16.3 Colleen and Norine have failed to properly account for the transfer of CDN$890,339 between March 2006 and June 2010 from Willowbrook to themselves and James resulting in a reduction in assets ultimately available to the Company;

16.4 In 2001 the receivable of US$2,600,000 owed by Can-K to Burdett was written off with no corresponding benefit;

16.5 The use of Company assets for personal use and enjoyment of Colleen, Norine and James;

16.6 The employment of Sean Finn, son of Colleen, as a "Junior Landman" and "Supply-Chain Analyst", neither of which is work which the Company or its subsidiaries undertake and therefore resulting in no benefit to the Company; and

16.7 The apparent failure to obtain a tax refund of $430,000 in relation to tax paid on interest that was never received in relation to loans that have since been written off.

17. Article 50 of the articles of the Company provides that "*The Company, if registered as an Ordinary Company under the Law shall hold a general meeting once in every calendar year ... in default of a general meeting being so held, a general meeting shall be held in the month next following.*" Save as described below under "Recent shareholder action" there has been no general meeting of the Shareholders.

18. Article 136 of the articles of the Company provides that "*The Directors shall from time to time cause to be prepare and to be laid before the Company in general meeting Profit and Loss accounts, Balance Sheets, group accounts (if any) and such other reports and accounts as may be required by law.*" No such financial documents have ever been laid before the Shareholders.

## F. RECENT SHAREHOLDER ACTION

19. On 13 February 2012 Colleen wrote to the other siblings in her personal capacity, giving limited details in relation to the financial assets of the Company and assets available to Grace. The letter noted that Sharon had accused the directors of the Company of not acting in accordance with their fiduciary duties and had accused Colleen, Norine and Jamie of stealing assets that otherwise should belong to the Company or its subsidiaries. The letter further noted that communications between Sharon and Grace had broken down and that in December 2010 an attempt had been made to reconcile the accounts of the company to show that there had been no theft and that all accounting practices had been followed.

20. In early 2012, on the instructions of Grace, Alex Campbell CA, CPA, was asked to review the Family holdings and to provide information on these financial matters to all the Family members. This report (the **Campbell Report**) was produced in 2012 and was the last update that the Petitioners received (and only meaningful information ever received) in relation to the financial affairs of the Company and its subsidiaries. The Campbell Report concluded that:

20.1 The total estimated value range for the Company and its subsidiaries was CAD 21.5-36M based on December 2009 information and subject to capital gains tax and other tax considerations on distribution;

20.2 Net income from the assets of Loto and Burdett were CAD 136,800;

20.3 Colleen was receiving a salary of CAD 60,000 per year from Burdett for managing the affairs of the Company and its subsidiaries;

20.4 That Can-K had not been paying interest for a number of years but Burdett had been including this in its financial statement, potentially giving rise to unnecessary tax liabilities;

20.5 That the current corporate structure is not the most effective for the shareholders when distributions ultimately come to be made;

20.6 That the articles of the Company require an annual general meeting once per calendar year with the provision of financial statements, a report on the affairs of the company and the election of directors for the upcoming year, but that no meetings had been convened or attended since inception and that no financial statements had been distributed;

20.7 That the report was based only on the 2009 financial statements for Burdett and Loto, with the 2010 and 2011 financial statements not being provided;

20.8 That under the current shareholding and corporate structure, Grace's estate would have a deemed capital gain on the value of her holdings in the Company which would create a significant tax liability (estimated to exceed $1.5m) that would need to be paid out;

20.9 That the directors should consider liquidating assets to maximize value and available liquidity;

20.10 That the assets of the Company and its subsidiaries were generating a negative return due to the manner of their use, being for the benefit of Grace, with the agreement of all, but that once James inherits Grace's shareholding this would not be a strategic or long term business plan to optimize the value for all the shareholders;

20.11 That there was a potential $430,000 tax refund due in relation to tax paid on interest declared but not received in relation to a loan to Can-K that had subsequently been written off; and

20.12 That the long term expectations of the shareholders should be addressed at a shareholders meeting to avoid long term conflict in the family.

21. Following provision of the Campbell Report the directors of the Company have refused to provide any further financial information in relation to the Company and have, save as detailed below, failed to hold any effective meetings of the Shareholders.

22. On 15 November 2012, Sheila, Sharon, Edward and Lorree wrote to the Company and its directors, collectively representing one-third of the Shareholders and requested a meeting of the shareholders be convened for the purposes of receiving and reviewing the financial statements of the Company and its subsidiaries. No response was received to this letter, and no meeting of Shareholders was called.

23. In 2015 the Petitioners asked Alex Campbell and John Reid CA, CPA, to review an offer to purchase the Barnston Island Property. On 17 September 2015 Mr Campbell provided a summary to the Shareholders, detailing an offer from David Emri to buy the Barnston Island Property for CAD9.6 million, equivalent to $83,500 per acre of land (the **Barnston Offer**). Comparable prices in Mr Campbell's report ranged from CAD 55,970 to CAD 91,725 per acre. Mr Campbell's summary highlighted a liquidity need should be anticipated for the Family holdings at some point in the future as:

23.1 The inheritance of Grace's shares by James would give rise to a deemed disposition that would attract a significant cash liability. Mr Campbell noted that this tax liability would need to be funded by Burdett as that is where the liquid resources reside, although he advised that the tax liability would be against Grace's estate and therefore payable by her executors;

23.2 The Family were all approaching retirement age, or were in retirement, and their retirement goals should be factored into the goals and strategy for the Family holdings.

24. Following the death of Grace on 13 December 2015, James, Colleen and Norine were appointed as executors of Grace's estate (the **Executors**). The Executors completed an inventory of Grace's property for the purpose of obtaining probate on Grace's estate. This inventory makes no reference to Grace's holding in the Company and no explanation has been provided to the Petitioners as to when Grace's shares were transferred to James. The Canadian Revenue Agency is currently investigating the position in relation to Grace's shares, which may result in a substantial tax liability, plus fines and penalties.

25. Following the death of Grace, the affairs of the Company should have been conducted in the best interests of the remaining Family members, in consultation with those Family members, including the Petitioners, to provide for their differing needs.

26. In the absence of any invitation by Colleen or Norine to engage in such a debate, on 21 February 2016 Sheila attended the home of Colleen and asked Colleen to buy out her shares in the Company on the basis that she wished to retire and wished to have liquid assets to satisfy her retirement and pass to her own children in a tax efficient manner. Colleen told Sheila that there was no money to buy out Sheila's shares. Sheila also asked about the progress on the Barnston Offer. Save being told that the offer of CAD9.6 million was a "pittance" and that the Barnston Property would be developed, the Petitioners have been provided with no information in relation to the sale and development of the Barnston Property.

27. On 9 March 2016, Sheila sent a registered letter to Colleen repeating her request that her shares be bought out and asking for financial information in relation to the Company to enable her to estimate the value of her shareholding.

28. On 22 March 2016, Edward wrote to Colleen as President and director of the Company and formally requested that his shares be repurchased. No response has been received. Lorree made a similar request by mail on 9 March 2016. Colleen said this was not received and Sheila emailed her request on 23 March 2016. Colleen said she passed this onto the lawyers and accountants for advisement. No response was ever received.

29. On 23 March 2016 Sheila followed up with an email seeking a response to her letter of 9 March 2016. On 29 March 2016 Colleen advised that the email had been passed onto "*our lawyers and accountants for advisement*". Despite Sheila chasing on 29 March 2016, no substantive response, no financial information and no response to the request to purchase has been received.

30. On 12 April 2016, following no response from Colleen, Sheila wrote a further letter in which she:

    30.1 Requested that the directors of the Company convene a meeting of shareholders;

    30.2 Formally requested a full and complete set of the Company's bylaws; and

    30.3 Requested that her shares be bought out at market value.

31. On 2 May 2016 Sheila wrote to Campbell Nominees Ltd, directing that the 75,000 shares held by them as nominee for her be transferred to her. Edward made the same request in a letter dated 10 May 2016 and Lorree requested this on 19 May 2016. This was completed by 22 September 2016 at the latest.

32. On 22 June 2016 Sheila wrote further to Colleen seeking a response to her enquiries and repeating her request for the articles of the Company that had not been received by Sheila by that time.

33. On 30 June 2016 Colleen responded to say that "*once all required documents are in place, you will receive your share certificate in your own name, the bylaws and there will be a shareholder meeting forthcoming.*" On 12 July 2016 Sheila repeated her request for a meeting, for a valuation of the Company and that her shares be bought out.

34. On 2 September 2016, notice of an extraordinary general meeting (**EGM**) of the Company was received by the Petitioners, to be held on 22 September 2016 in Grand Cayman (despite the fact that all the Shareholders live at least 4550 miles/17 hours' travel time from the Island).

35. Sheila, Sharon, Lorree and Edward attended in Grand Cayman at significant personal expense for the purpose of the EGM of the Company. Prior to the EGM the Petitioners engaged Priestleys Limited (**Priestleys**). In the absence of a proposed agenda for the EGM, Priestleys wrote to Campbells on 21 September 2016, indicating that the Petitioners wished to obtain information in relation to the conduct of the Company and future plans for the Company.

36. Sheila, Sharon, Lorree and Edward, with Nick Hoffman of Priestleys, attended the offices of Campbells for the purpose of the EGM. Colleen, Norine and James did not attend, although they were in the building. In their place, Lily Lee and Mark Goodman, both of Campbells, attended. . Ms Lee attended on behalf of Campbells Nominees Ltd representing nominee shareholdings. Sheila, Sharon, Edward and Lorree received their share certificates representing the shares registered in their names at this meeting.

37. Article 61 of the articles of the Company provides that the Chairman, if any, of the Board of Directors shall preside as chairman at every general meeting of the Company, or if there is no such Chairman or if the Chairman is not present within fifteen minutes after the time of holding the meeting, the Directors present shall elect one of their number to be Chairman of the meeting. Article 62 provides that if no Director is present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose one of their number to be Chairman of the meeting. Article 63 of the articles of the Company provide that the Chairman may only adjourn a meeting with the consent of any meeting at which a quorum is present.

38. The directors failed to attend the meeting. In their absence the members present should have been allowed to appoint a Chairman. Mr Goodman proposed that the meeting be convened and adjourned because there was no formal business. On the basis that Lily Lee exercised the votes for a majority of the beneficial owners, the Petitioners reluctantly agreed to an adjournment. Then Mr Goodman proceeded to address the Priestleys letter of 21 September 2016.

39. Mr Goodman went on to confirm that:

39.1 Annual general meetings had been held and minutes relating to the same had been kept;

39.2 There were no profit and loss accounts, balance sheets or group accounts presented to the AGM as the shareholders waived this right. However there were books and records which will include these documents, properly and professionally prepared;

39.3 Full financial statements would be provided, which have been produced by accountants for each of the subsidiaries and profit/loss relating to World. These later records were brief, the most comprehensive accounts being produced for the subsidiaries. In the normal way this should include the amount of cash on hand, the amount of debt owing to or by the Subsidiary Companies, any withdrawals of capital, and details of related party transactions;

39.4 Minutes of the directors meetings would be provided;

39.5 A directors' report would be prepared explaining:

39.5.1 The activities of the Company and its subsidiaries;

39.5.2 All benefits enjoyed by shareholders and directors, including payments and loans and any use of Company property; and

39.5.3 An explanation of the future plans for the Company.

40. No directors' report was received by 31 October 2016. Instead, on 9 November 2016 Mr Goodman emailed Mr Hoffman indicating that:

40.1 The directors of the Company took the position that the shareholders had no right to inspect the accounts or books of the Company;

40.2 That the Petitioners did not hold shares in the Company until on or after 25 May 2016 and therefore had no right to any financial information;

40.3 A report to shareholders would nevertheless be provided by 30 November 2016 and the directors were willing to allow inspection of the Company's minute book, both subject to signature of a non-disclosure agreement that precluded disclosure to "relatives, spouse or partner".

41. On 16 November 2016 the Petitioners sought a meeting with Campbells and their clients on Saturday, 3 December 2016. The purpose of the meeting was indicated to be a

proposal to the directors of the Company which the Petitioners considered should form the basis of a way forward. Mr Goodman agreed to attend.

42. On 21 November 2016 a further letter from Campbells to Priestleys reiterated that the non-disclosure agreement had to be signed prior to receipt of the report.

43. On 3 December 2016, Lorree and Mr Reid, and Mr Hoffman met with Mr Goodman in Campbells' Grand Cayman office. The purpose of the meeting was to discuss a possible winding up of the Company to facilitate the payment of tax liabilities arising from Grace's estate and to enable the Shareholders to pass their share of the Family property to their own children. In that meeting it was agreed that all parties should move towards a wind up of the Company. On 21 December 2016 Mr Hoffman sent an email to Mr Goodman outlining all the issues, including that a significant tax liability arose for the estate of Grace given the disposition of her shareholding to James.

44. Mr Goodman subsequently informed Mr Hoffman that the Directors' report was not ready and confirmed it would be ready by 15 January 2017.

45. On 22 January Mr Goodman contacted Mr Hoffman and said that he was yet to receive instructions in relation to the report. There was no further communication on this matter with Campbells or the directors of the Company. None of the promised information has been provided and no further meeting of shareholders has been called.

46. On 7 April 2017, Sheila wrote again to the directors of the Company raising concerns in relation to the management of its affairs. No response was received.

47. On 28 August 2017, the Petitioners wrote to the directors of the Company requisitioning a further shareholder meeting.

48. Article 53 of the articles of the Company provides that the Directors shall, upon the requisition in writing of one or more members holding in the aggregate not less than one tenth of the paid up capital as at the date of the requisition convene an EGM.

49. Article 54 provides that the Directors have twenty-one days to convene a meeting of the shareholders in response to a requisition. No notice has been given.

50. No meeting has been convened in response to the requisition. Instead, on 12 September 2017, Campbells wrote on behalf of the Company acknowledging the right of the Petitioners to requisition a meeting of shareholders but indicating:

    50.1 that the purpose of the meeting would include the provision of "*commercially sensitive and confidential information to the Minority shareholders*" for which the directors required signed non-disclosure agreements;

50.2 That the directors did not anticipate having up to date financial information available for discussion until the end of January 2018; and

50.3 That the directors proposed that the EGM be convened for late-January 2018.

51. No explanation of what commercially sensitive and confidential information exists as between the Company and its shareholders has been given. Particularly in view of the origin of the Company's assets and its status as a family holding company, there is no proper information that would be commercially sensitive or confidential as between the Company and the Petitioners. On 17 September 2017 the Petitioners agreed to an EGM to take place in January 2018 and sought assurances that the directors and their lawyers would attend. On 3 October 2017 the Petitioners repeated that they agreed to defer the requisition request to have a meeting on the basis of a commitment to have a meeting in January 2018, that they were prepared to sign an NDA and seeking confirmation of any other requirements necessary and that an EGM would be called.

52. On 11 December 2017 the Petitioners signed and sent a revised NDA that was amended to permit disclosure to Lorree and Edward's spouses stating it was reasonable that Lorree and Edward be permitted to discuss matters pertaining to their shares in the Company with their respective spouses. To date there has been no response from the directors.

53. It was never the intention of the Shareholders that the Company should be run at a loss following the death of Grace but that the Company would then liquidate such of its assets as necessary to make distributions to allow the Shareholders to provide for their own families and themselves in their advancing age. If the Petitioners are required to pass their shares to their own children there will be a deemed distribution under Canadian tax law that may incur tax liabilities which the Petitioners and their children will be unable to pay unless distributions are received from the Family assets held by the Company.

54. Following the death of Grace, no steps have been taken to seek the views of the Family as to the affairs of the Company. As a result of the breakdown in relations between the Petitioners and the directors of the Company, the Petitioners have asked that their shares be bought out.

55. The Petitioners' complaint is that Colleen, Norine and James are maintaining the Company at a loss for their own personal benefit, are mismanaging and misapplying its assets, and continue to ignore the interests of the other Shareholders, despite the facts:

55.1 that the members of the Family with an interest in the Company no longer wish to maintain the assets through the Company;

55.2 the Petitioners are entitled, following the death of Grace, to withdraw their investments individually;

55.3 that the Petitioners have been improperly deprived of information about the assets of the Company and how the directors have dealt with those assets; and

55.4 that trust and confidence has broken down.

56. The Petitioners have requested that assets be liquidated and distributions made, or that their shareholdings be bought out. These requests have been ignored. The only alternative is to liquidate the Company.

## G. GROUNDS FOR WINDING UP

57. It is just and equitable to wind up the Company under Section 92(e) of the Companies Law for the following reasons:

57.1 the Petitioners have the right to withdraw their investment from the Company, but that right is being denied them;

57.2 the directors of the Company have caused the Company to be managed in a manner that is not in the best interests of the Company;

57.3 the directors of the Company have caused the Company to be managed in breach of the articles of association of the Company;

57.4 the Petitioners have been excluded from financial information necessary to evaluate the management of the Company and to which they are entitled under the articles of association of the Company;

57.5 the Petitioners have a justifiable lack of confidence in the management of the Company;

57.6 the Petitioners' legitimate expectations as to the manner in which the business of the Company would be conducted after the death of Grace have not been met; and

57.7 the Company is not being maintained to carry out the purposes for which it was set up, but is instead being maintained for the benefit of a minority of the Family.

58. In the premises, the Petitioners seek an order that the Company be wound up.

**YOUR PETITIONERS THEREFORE HUMBLY PRAY AS FOLLOWS:**

1. That the Company be wound up by the Court under the provisions of the Companies Law.

2. Kris Beighton and Jeffrey Stower of KPMG be appointed as joint official liquidators of the Company (the **Liquidators**).

3. The Liquidators shall not be required to give security for their appointment.

4. The Liquidators be authorised to exercise any of the powers conferred on them by Section 110(2) and Parts I and II of the Third Schedule of the Companies Law without the further sanction or intervention of the Court.

5. The Liquidators be 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 Company's assets.

6. 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.

7. No disposition of the Company's property by or with the authority of the Liquidators 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.

8. The Liquidators shall be at liberty to appoint counsel, attorneys, and/or any other professional advisers, 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 fit and to remunerate them out of the assets of the Company.

9. The Liquidators be authorised to take control of such of the subsidiaries of the Company, investment, associated companies, business or other entities in which the Company holds an interest (or such shares of such subsidiaries and/or associated companies as are owned directly or indirectly by the Company) as the Liquidators shall think fit and call or cause to be called such meetings of such subsidiaries and/or associated companies (in accordance with the provisions of any relevant constitutional or related documentation of such companies) as the Liquidators shall consider necessary to appoint additional directors or terminate existing directors of the boards of directors of such subsidiaries and/or associated companies or to take such other action in relation to such subsidiaries or associated companies as the Liquidators shall think fit for the purpose of protecting the assets of the Company and managing the affairs of the Company.

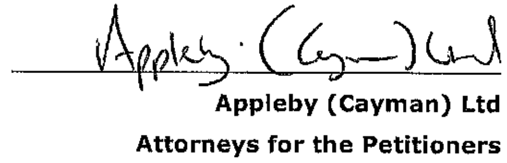
10. The Liquidators and their staff be remunerated out of the assets of the Company at the usual customary rate.

11. The Liquidators be at liberty to apply generally.

12. The costs of the Petition and the Petitioner be paid out of the assets of the Company as an expense of the liquidation.

13. Such further or other relief as to the Court seems appropriate.

Dated this 15th day of February 2018



**Appleby (Cayman) Ltd**

**Attorneys for the Petitioners**

**THIS PETITION** was filed by Appleby (Cayman) Ltd., Attorneys-at-Law for the Petitioners, whose address for service is 71 Fort Street, PO Box 190, KY1-1104, George Town, Grand Cayman, Cayman Islands. (Ref: AB/JS/440896.0001)

**NOTICE OF HEARING**

**TAKE NOTICE THAT** the hearing of this petition will take place at the Law Courts, George Town, Grand Cayman on the day of 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, Cayman Islands, KY1-1106 telephone (+1 345) 949 4296.