



IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

CAUSE NO. FSD 231 OF 2018 ()

IN THE MATTER OF THE COMPANIES LAW (2018 REVISION)
AND IN THE MATTER OF PINNACLE GLOBAL PARTNERS FUND I LTD

WINDING UP PETITION



TO: The Grand Court of The Cayman Islands

The humble Petition of: (i) Perlen Holdings Ltd of Craigmuir Chambers, Road Town, Tortola VG1110, British Virgin Islands (*Perlen*) and (ii) Nerthington Ltd of 19 Waterfront Drive, P.O. Box 3540, Road Town, Tortola VG1110, British Virgin Islands (*Nerthington*) (*Perlen* and *Nerthington* each a *Petitioner* and together, the *Petitioners*) shows THAT:

BACKGROUND

1. Pinnacle Global Partners Fund I Ltd. (the *Company*) is a Cayman Islands exempted company registered on 6 December 2013 under registration number 283320 and with registered office at Maples Corporate Services Limited, P.O. Box 309, Uglund House, South Church Street, George Town, Grand Cayman, KY1-1104, Cayman Islands. The Company is registered with the Cayman Islands Monetary Authority as an active mutual fund, recognised on 6 March 2014, and with reference number 1016142.
2. To the best of the Petitioners' knowledge, the Company operates as a mutual fund that, at material times, held and may still hold, directly and indirectly, real property assets in Canada and the Turks and Caicos Islands, lumber and forestry assets in Brazil and a securities portfolio in Hong Kong.

Loan Agreement entered into between the Company and Nerthington

3. On 6 April 2016, the Company and Nerthington entered into a Loan Agreement (***Loan Agreement***) pursuant to which, inter alia, Nerthington agreed to lend the Company a total amount of not less than 4,000,000 United States Dollars (***USD***) and not more than USD 10,000,000, to be utilised by the Company for the purposes of financing its trading strategy for the purchasing and selling of equity shares mostly located in the Asia markets.
4. On 23 March 2017, the Company and Nerthington entered into an Amendment Agreement in respect of the Loan Agreement (***Loan Amendment Agreement***). The Amendment Agreement provided, inter alia, that the loan to be provided by Nerthington to the Company would be in the total amount of USD 4,000,000.
5. On around 8 April 2016, Nerthington advanced the principal amount of USD 4,000,000 to the Company pursuant to the terms of the Loan Agreement, as amended by the Loan Amendment Agreement.
6. In breach of the terms of the Loan Agreement, as amended by the Loan Amendment Agreement, the Company failed to pay the agreed interest on the outstanding loan amount.
7. On 7 July 2017, Nerthington sent the Company a notice of default in respect of the Company's failure to pay interest on the outstanding loan amount for the interest periods of April 2017, May 2017 and June 2017.
8. On 4 August 2017, Nerthington sent the Company a further notice of default in respect of the Company's failure to pay interest on the outstanding loan amount for the interest periods of April 2017, May 2017, June 2017, mentioned at paragraph 7 above, along with July 2017.

Profit Participation Agreement entered into between the Company and Perlen

9. On 23 June 2016, the Company and Perlen entered into a Profit Participation Agreement (***PPA***) pursuant to which, inter alia, Perlen agreed to provide an amount

of USD 11,000,000 to the Company for the acquiring, holding, operating, improving, developing, renovating, expanding, originating, using, leasing, financing, managing or disposing of real property and engaging in activities related or incidental thereto or, under certain circumstances (and upon prior written approval of Perlen), for the acquisition and sale of securities.

10. On 13 March 2017, the Company and Perlen entered into an Amendment Agreement (**PPA Amendment Agreement**) pursuant to which, inter alia, Perlen was to have the right, but not the obligation, to make an additional amount of up to USD 10,000,000 available to the Company for the purposes of financing the acquisition and sale of securities.
11. On around 8 July 2016, Perlen advanced the principal amount of USD 11,000,000 to the Company pursuant to the terms of the PPA, as amended by the PPA Amendment Agreement.
12. In breach of the terms of the PPA, as amended by the PPA Amendment Agreement, the Company failed to pay the agreed interest on the capital provided by Perlen.
13. On 4 August 2017, Perlen sent the Company a notice of default in respect of the Company's failure to pay interest in relation to the capital provided by Perlen under the PPA in respect of the interest periods of April 2017, May 2017, June 2017 and July 2017.

Further Profit Participation Agreement entered into between the Company and Perlen

14. On 22 March 2017, the Company and Perlen entered into a further Profit Participation Agreement (**Scollard PPA**) pursuant to which, inter alia, Perlen agreed to provide an amount of USD 3,500,000 to the Company for the purposes of directly and/or indirectly acquiring, holding, maintaining, operating, improving, developing, renovating, expanding, originating, using, financing, managing and disposing of property owned by a fully owned special purpose vehicle of the Company located at 121 Scollard Street, Toronto, Ontario and engaging in activities related or incidental thereto.

15. On around 31 March 2017, Perlen advanced the principal amount of USD 3,500,000 to the Company pursuant to the terms of the Scollard PPA.
16. In breach of the terms of the Scollard PPA, the Company failed to pay the agreed base interest coupons on the capital provided by Perlen.
17. On 4 August 2017, Perlen sent the Company a notice of default in respect of the Company's failure to pay certain interest coupons in relation to the capital provided by Perlen under the Scollard PPA.
18. On 27 November 2017, Perlen sent the Company a further notice of default in respect of the Company's failure to pay certain interest coupons in relation to the capital provided by Perlen under the Scollard PPA.

Agreement regarding the payment of amounts due under and amendments to the Existing Agreements entered into between the Company, Nerthington and Perlen

19. On 29 December 2017 the Company, Nerthington and Perlen entered into an agreement entitled the "*Agreement regarding the payment of amounts due under and amendments to the Existing Agreements*" (***Repayment Agreement***).
20. The purpose of the Repayment Agreement is, inter alia, to set forth the parties' agreement with regard to the implementation of the termination of the Loan Agreement, the PPA, and the Scollard PPA, and amounts payable in relation to those terminations (including interest and default interest for past and future periods).
21. Pursuant to Clause 1 of the Repayment Agreement, the Company acknowledges in relation to Nerthington and Perlen that the amount set out under the heading "***Outstanding Amounts***" in Schedule 1 of the Repayment Agreement is outstanding as at the date of the Agreement ("***Signing Date***"). In relation to each of Nerthington and Perlen, the Outstanding Amounts are broken down into: (i) principal (***Principal***) and (ii) outstanding interest (***Outstanding Interest***), each as set out in Schedule 1 of the Repayment Agreement and as follows:

Recipient	Document	Outstanding Amount Owed
Nerthington	Loan Agreement	USD 4,000,000 (Principal)
		USD 540,000 (Outstanding Interest)
		USD 4,540,000 (Total)
Perlen	PPA	USD 11,000,000 (Principal)
		USD 880,000 (Outstanding Interest)
		USD 11,880,000 (Total)
Perlen	Scollard PPA	USD 3,500,000 (Principal)
		USD 176,400 (Outstanding Interest)
		USD 3,676,400 (Total)

22. In addition, the Repayment Agreement provides (at Clause 2) for payment of Outstanding Interest and future (default) interest.
23. The Company has made the following interest payments in the total amount of USD 159,002.04 to Perlen pursuant to the Repayment Agreement:
- a) USD 47,420.38 on 8 June 2018;
 - b) USD 28,340.41 on 20 August 2018;
 - c) USD 83,241.25 on 24 August 2018.
24. The Company has not made any payment to Nerthington pursuant to the Repayment Agreement.

AMOUNTS OUTSTANDING

25. As at 1 December 2018, the Company owes Perlen the amount of USD 20,340,837.96.
26. As at 1 December 2018, the Company owes Nerthington the amount of USD 6,014,400.

STATUTORY DEMANDS

27. On 26 October 2018, Perlen served a statutory demand dated 22 October 2018 on the Company pursuant to section 93 of the *Companies Law (2018 Revision)* (the *Companies Law*), by which Perlen demanded repayment of the amount of USD 15,556,400.
28. The Company did not make any payment to Perlen, or secure or compound for the same to the satisfaction of Perlen within three weeks of service of this statutory demand.
29. On 29 October 2018, Nerthington served a statutory demand dated 22 October 2018 on the Company pursuant to section 93 of the Companies Law, by which Nerthington demanded repayment of the amount of USD 4,540,000.
30. The Company did not make any payment to Nerthington, or secure or compound for the same to the satisfaction of Nerthington within three weeks of service of this statutory demand.
31. As at 1 December 2018, the Company had not made any payment to either of the Petitioners, and the Petitioners have not received any correspondence from the Company disputing the existence or quantum of the amount owing to the Petitioners.

GROUNDS FOR THE PETITION

32. The Petitioners are creditors of the Company and present this Petition pursuant to section 92(d) of the Companies Law, which provides that a company may be wound up by the Court if it is unable to pay its debts.
33. The Company is deemed unable to pay its debts pursuant to section 93(a) of the Companies Law. Alternatively, the Petitioners can prove to the Court's satisfaction that the Company is unable to pay its debts pursuant to section 93(c) of the Companies Law.

34. In the circumstances, the Petitioners seek an order from this Honourable Court that the Company be wound up and nominates the Liquidators (defined below) to be the official liquidators of the Company.

YOUR PETITIONERS THEREFORE HUMBLY PRAY THAT:

1. The Company be wound up by the Court under the provisions of the Companies Law.
2. David Griffin and Andrew Morrison of FTI Consulting (Cayman) Limited, Suite 3212, 53 Market Street, Camana Bay, Grand Cayman, Cayman Islands, and John Batchelor of FTI Consulting (Hong Kong) Limited, Level 35, Oxford House, Taikoo Place, 979 King's Road, Quarry Bay, Hong Kong be appointed as the Joint Official Liquidators of the Company (*Liquidators*).
3. The Liquidators shall not be required to give security for their appointment.
4. The Liquidators shall be authorised to exercise the following powers conferred on them by Section 110(2) and Part I of the Third Schedule of the Companies Law without the further sanction or intervention of the Court:
 - i) The Liquidators 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 fit and to remunerate them out of the assets of the Company; and
 - ii) The Liquidators be at liberty to seek recognition of the Company's liquidation and their appointment in the Hong Kong Special Administrative Region of the People's Republic of China, the Federative Republic of Brazil and the United States of America.
5. 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.

6. 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 shall be voided by virtue of section 99 of the Companies Law.
7. The JOLs' remuneration and expenses be paid out of the assets of the Company in accordance with the Companies Winding Up Rules 2018 and Part III of the Insolvency Practitioners' Regulations 2018.
8. The Liquidators be at liberty to apply generally.
9. The costs of the Petition and the Petitioners be paid out of the assets of the Company as an expense of the liquidation.
10. Such further or other relief be granted as the Court deems appropriate.

AND your Petitioners will ever pray etc.

Dated the 14th day of December 2018

Harney Westwood & Riegels

Harney Westwood & Riegels

Attorneys-at-Law for and on behalf of the Petitioners

NOTE: This Petition is intended to be served on the Company and on the Cayman Islands Monetary Authority.

This Petition was presented on behalf of the Petitioners by Harney Westwood & Riegels, Attorneys-at-Law for the Petitioners, whose address for service is 4th Floor, Harbour Place, 103 South Church Street, PO Box 10240, Grand Cayman KY1-1002, Cayman Islands (Ref: 018027.0036/JGW/LBG/JYE).

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 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, George Town, Grand Cayman KY1-1106, Cayman Islands; Tel: 345 949 4296.