



IN THE GRAND COURT OF THE CAYMAN ISLANDS

FINANCIAL SERVICES DIVISION

CAUSE NO. FSD 31 OF 2021 (IKJ)

IN THE MATTER OF THE COMPANIES LAW (2021 REVISION)

AND IN THE MATTER OF POLARCUS LIMITED

ORDER

ON THE PAPERS
BEFORE THE HONOURABLE JUSTICE KAWALEY

UPON the application of Polarcus Limited (the "**Company**") by its *ex parte summons* dated 3 February 2021 (the "**Summons**") for the appointment of joint provisional liquidators pursuant to section 104(3) of the Companies Act (2021 Revision) (the "**Companies Act**")

AND UPON reading the winding up petition presented by Polarcus DMCC on 3 February 2021 (the "**Petition**"), the First Affidavit of Hans-Peter Burlid executed on 3 February 2021, the First Affidavit of Caleb Raywood executed on 3 February 2021, the First Affidavit of David Griffin sworn on 3 February 2021, the First Affidavit of Andrew Morrison sworn on 3 February 2021, the First Affidavit of Lisa Rickelton executed on 3 February 2021, and the exhibits thereto

IT IS ORDERED THAT:

1. David Griffin and Andrew Morrison of FTI Consulting, Suite 3212, 53 Market Street, Camana Bay, Grand Cayman, KY1-1203, Cayman Islands and Lisa Rickelton of FTI Consulting, 200 Aldersgate, Aldersgate Street, London EC1A 4HD, United Kingdom, be appointed as joint provisional liquidators (the "**JPLs**") of the Company on the grounds that the Company is or is likely to become unable to pay its debts within the meaning of section 93 of the Companies Act and the Company intends to present a compromise or arrangement to its creditors.
2. The JPLs be authorised to act jointly and severally with the powers set out in and subject to the provisions of this Order.



3. The JPLs be authorised to take all necessary steps with a view to developing and proposing a restructuring of the Company's financial indebtedness with a view to making a compromise or arrangement with the Company's creditors or any class thereof (the "**Restructuring**").
4. The JPLs, acting jointly or severally, are authorised to seek recognition of the provisional liquidation and/or the appointment of the JPLs in any jurisdiction that the JPLs consider necessary together with such other relief as they may consider necessary for the proper exercise of their functions within that jurisdiction.
5. For the purposes set out at paragraph 3 hereof and without prejudice to the powers retained by the Company's board of directors (the "**Board**") pursuant to paragraph 7 below, until further Order, the JPLs are authorised to exercise, within and outside of the Cayman Islands, and without further sanction of the Court, the powers to:
 - (a) monitor, oversee and supervise the Board in its management of the Company (as such powers are retained by the Board by paragraph 7 below);
 - (b) review the financial position of the Company, and in particular assess the feasibility of a proposal for the Restructuring;
 - (c) monitor, consult with and otherwise liaise with the creditors and shareholders of the Company in determining whether the Restructuring will be successfully approved and implemented;
 - (d) do all acts and execute, in the name and on behalf of the Company, all agreements, deeds, receipts and other documents and, for that purpose, use the Company seal when necessary;
 - (e) oversee the existing Board (and attend any meetings of the Board) so as to effect a maximisation of returns to the stakeholders of the Company;
 - (f) do all such things as may be necessary or expedient for the protection or recovery of the Company's property and assets and those of its subsidiaries at law or in equity in such jurisdictions as they may consider to be appropriate;



- (g) exercise the rights to which a registered holder of any shares or other securities registered in the name of the Company, or to which an owner of any shares or securities held by or on behalf of the Company (whether as principal or as agent), is entitled including, but without prejudice to the generality of the foregoing power, the right to receive dividends and the benefits of other corporate actions in relation to such shares or other securities; the right to attend meetings and to exercise any voting power pertaining to such shares or other securities and to direct nominees of the Company in whose names shares or other securities beneficially owned by the Company are registered to exercise all or any such rights as the JPLs shall direct;
- (h) take control of such of the direct and/or indirect subsidiaries (the "**Subsidiaries**") of the Company, and/or joint ventures, investment, associated companies, business or other entities (together the "**Associated Companies**") 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), in each case wherever located, as the JPLs shall think fit; and/or to call or cause to be called such meetings of such Subsidiaries and/or Associated Companies and/or to sign such resolutions (in accordance with the provisions of any relevant constitutional or related documentation of such companies) and take such other steps, including applications to appropriate courts and/or regulators, as the JPLs shall consider necessary to appoint or remove directors, legal representatives, officers, and/or managers to or from such Subsidiaries and/or Associated Companies, and in each case take such steps as are necessary to cause the registered agents (or other equivalent corporate administrators) of such Subsidiaries or Associated Companies to give effect to the changes to the boards of directors, legal representatives, officers, and/or managers of such companies or entities, including (without limitation) effecting changes to the company registers of such Subsidiaries or Associated Companies as may be deemed appropriate by the JPLs; and/or to take such other action in relation to all such Subsidiaries or Associated Companies as the JPLs shall think fit for the purpose of protecting the assets of the Company and managing the affairs of the Company (which, for the



avoidance of doubt, shall include the assets and affairs of the Subsidiaries and Associated Companies);

- (i) supervise the operation and/or opening and/or closing of any bank accounts in the name and on behalf of the Company;
- (j) open any bank accounts on behalf of the Company (in provisional liquidation) and to receive funds for the purpose of paying the costs and expenses of the provisional liquidation;
- (k) draw, accept, make and endorse any bill of exchange or promissory note or borrow funds for the purpose of the day to day expenses of the provisional liquidation, 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 endorsed or the loan had been entered into by or on behalf of the Company in the course of its business;
- (l) communicate with and carry out any necessary filings with regulatory bodies as appropriate, including, without limitation, the Cayman Islands Registrar of Companies and the Olso Børs in the name and on behalf of the Company;
- (m) make payments to creditors which may have the effect of preferring such creditors, in order to minimise the interruption to the day-to-day activities of the Company;
- (n) prove, rank and claim in the bankruptcy, insolvency or sequestration of any contributory for any balance against the estate of such contributory, and to receive dividends in the bankruptcy, insolvency or sequestration in respect of that balance, as a separate debt due from the bankrupt, insolvent or sequestrated contributory and rateably with the other separate creditors;
- (o) discharge debts incurred by the Company after the commencement of these proceedings as expenses or disbursements properly incurred in the provisional liquidation;
- (p) engage staff (whether or not as employees of the Company and whether located in the Cayman islands or elsewhere) to assist them in the performance of their duties for the purpose of the proceedings herein and to



remunerate them out of the assets of the Company as an expense of the provisional liquidation;

- (q) engage attorneys and other professional advisors (whether in the Cayman Islands or elsewhere) as the JPLs may consider necessary to assist them in the performance of their duties for the purpose of the proceedings herein, on such terms as the JPLs may think fit, and to remunerate them out of the assets of the Company as an expense of the provisional liquidation;
 - (r) authorise the directors to exercise such of the above powers relating to Company on such terms as the JPLs consider fit;
 - (s) pay the JPLs' remuneration on account out of the assets of the Company on the basis set out in the Insolvency Practitioners' Regulations (2018) (the "**Regulations**"); and
 - (t) do all other things incidental to the exercise of the powers set out above.
6. The JPLs shall submit a report to the Court on the progress of the provisional liquidation by no later than 31 March 2021 and at other intervals as the Court may from time to time direct.
7. Until further Order, the Board shall retain all powers of management conferred upon it by the Company immediately prior to the date of this Order, subject to the JPLs' oversight and monitoring of the exercise of such powers in relation to matters related to the ordinary course of business of the Company, pursuant to paragraph 5 hereof and, in relation to matters outside of the ordinary course of business of the Company, the JPLs granting prior approval of the exercise of such powers. In the event that the JPLs and the Board cannot agree upon a proposed action outside the ordinary course of the Company's business, the JPLs and the Board have liberty to apply to this Court for directions. Specifically, and without limitation to the foregoing, the Board continues to retain the following powers:
- (a) to continue to conduct the ordinary, day-to-day, business operations of the Company;
 - (b) to continue to operate and maintain the bank accounts of the Company in the ordinary course of the Company's business; and



- (c) subject to the approval and consent of the JPLs, to open and close bank accounts on behalf of the Company.
8. The JPLs shall not be required to give security for their appointment.
9. For the avoidance of doubt:
- (a) no disposition of the Company's property by or with the authority of the JPLs in either case in the carrying out of their duties and functions and the exercise of their powers pursuant to this Order shall be avoided by virtue of Section 99 of the Companies Law;
- (b) all future transfers of the fully paid shares of the Company be approved and shall not be avoided by virtue of Section 99 of the Companies Law whilst the Company is in provisional liquidation provided that the JPLs provide their written consent to each future transfer of shares; and
- (c) pursuant to Section 97(1) of the Companies Law, no suit, action or other proceedings, including criminal proceedings, shall be proceeded with or commenced against the Company except with the leave of this Court and subject to such terms as this Court may impose.
10. The hearing of the Petition shall be adjourned to a date to be fixed upon the application of the JPLs, or upon the application of any creditor of the Company provided such application has been served on the JPLs not less than 14 clear days' notice before the hearing of the application.
11. Any creditor of the Company has liberty to apply to this Court at any time to vary or discharge this Order, on not less than 14 clear days' notice to the JPLs, and on receipt of such notice, the JPLs shall immediately notify the Board.
12. The appointment of the JPLs be advertised once in English in the *Cayman Islands Gazette* and a press release be issued on the *Olso Børs*, within 7 days of this Order and the requirement to advertise the Petition be dispensed with.
13. The remuneration and expenses of the JPLs, including the expenses associated with the exercise of their powers, shall be paid out of the assets of the Company subject to the approval of the Court and on such terms as the Court may direct.

14. The JPLs, the Board or any creditor of the Company shall be at liberty to apply for directions in relation to, without limitation, any matter concerning the Company or the conduct of the provisional liquidation or the JPLs.
15. Payments made into or out of the bank accounts(s) of the Company in the ordinary course of business of the Company between the date of the presentation of the Petition herein and the date of the appointments of the JPLs shall not be avoided by virtue of the provisions of section 99 of the Companies Law in the event of an order for the winding up of the Company being made of the Petition.
16. The costs of the Summons are to be paid out of the assets of the Company.

DATED the 8th day of February 2021

FILED the 8th day of February 2021



**THE HONOURABLE JUSTICE KAWALEY
JUDGE OF THE GRAND COURT**

This **ORDER** was filed by Walkers, Attorneys-at-Law, 190 Elgin Avenue, George Town, Grand Cayman KY1-9001, Cayman Islands, for the Company whose address for service is care of its said Attorneys-at-Law.