



IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

CAUSE NO. FSD OF 2021 (___)

IN THE MATTER OF THE COMPANIES ACT (2021 REVISION)

AND IN THE MATTER OF OSPREY YACHT CHARTER LIMITED

WINDING UP PETITION

To the Grand Court

The humble petition of Daniel Goldsmith (the Petitioner) c/o Dinner Martin Attorneys t/a Dentons shows that:

1. The Petitioner presents this petition for the winding up of Osprey Yacht Charter Limited (the Company) and the appointment of Angela Barkhouse as official liquidator.
2. The Company is an exempt company registered pursuant to the Companies Act (2021 Revision) (the Companies Law). It was incorporated on 13th May 2009 with registration number 710190. The registered office of the Company is Cayman Business Park A7, PO Box 10300, Grand Cayman KY1-1003, Cayman Islands.
3. The Petitioner is a director and a creditor of the Company seeks the winding up of the Company on a just and equitable basis.

The Business of the Company

4. The Company acts as a holding company for a yacht, namely the Osprey, which is a 34.8 metre pleasure yacht of wooden construction, registered under the Cayman Islands Shipping Registry. Its keel was laid in 1952 and launched as HMS Chillingham on 19th December 1952. The Company contracts with the various parties necessary to operate and carter the Osprey, such as shipyards, engineers, crew, insurance companies and legal advisors where required.

5. In the usual course of affairs, the Company operated as a service provider to the shareholder of the Company, who in turn enjoyed the use of the Osprey and, in practical terms, satisfied the liabilities of the Company as they fell due. Accordingly, the Company did not operate in order to trade as a charter provider on a wide basis, but rather to manage the needs of the Osprey and its owner.

The Liabilities of the Company

6. In the course of 2019 and 2020, the Company incurred liabilities that the then shareholder, Mr O. H. Nesheim was unwilling or unable to pay and the Company has no operating capital out of which to satisfy those liabilities. The Petitioner, in his capacity as a director, was instructed, by Mr. O. H. Nesheim, to find a buyer for Osprey or the Company in consequence. By that stage the total liabilities of the Company were approximately US\$ 450,000:00. The Petitioner is not aware of any *bona fide* dispute on the part of the Company over the existence of the above liabilities.

The Current Circumstances of the Company

7. In June 2020, Mr Jean-Charles Bully, a French national, expressed a desire to purchase the Osprey via acquisition of the shares in the Company. An agreement was signed between the Company and Mr Bully on 6 August 2020 and received by Mr Goldsmith on 11 August 2020 for the purchase of the shares of the Company, its assets and its liabilities in return for US\$ 1.00. It was a term of that purchase agreement that the creditors of the Company would be satisfied in full within 14 days of the date of the purchase.
8. Mr Bully did not and has not to date, despite the best efforts of Mr Goldsmith, provided by the Company with the necessary funds or indeed any funds to satisfy its creditors. Nor, to the best of the Petitioner's knowledge, has Mr Bully satisfied any of the liabilities of the Company directly with its creditors.
9. The Company remains unable to pay its liabilities as they fall due and Mr Bully has not acted in accordance with the terms of the purchase agreement to provide the Company with resources to meet those liabilities. The Company is therefore cash-flow insolvent.
10. Further, Mr Bully has acted to thwart at least one creditor of the Company when, in late October 2020, Mr Bully purported to satisfy the liability owed by the Company to the Port of Toulon for mooring fees in the sum of Euro 77,234.32 by wire transfer in order to secure the release of the Osprey. Having transmitted evidence of payment and removed the Osprey from the Port of Toulon, however, Mr Bully acted to cancel the said wire transfer and the Port did not receive the promised funds.


11. The Osprey is currently moored in the IMS Shipyard, Toulon, France.
12. Mr Bully has not responded substantively to demands for payment of the liabilities of the Company made by the Petitioner.
13. The position of the Company is one of cash-flow insolvency where the shareholder, despite the terms of the purchase agreement, refuses to act to satisfy the Company's liabilities. Short of the sale of the Osprey, the Company has no means of returning to solvency. The Petitioner, in his capacity as a director, cannot lawfully allow the Company to continue to trade.
14. Based on the Company's failure to satisfy or otherwise make arrangements for the payment of its liabilities, the Company should be considered unable to pay its debts and is liable to be wound up pursuant to section 92 (d) of the Companies Act (2021 Revision). Further or in the alternative, it is just and equitable that the Company should be wound up pursuant to section 92 (e) of the Companies Act (2021 Revision).
15. The proposed liquidator Angela Barkhouse, of Quantuma (Cayman) Ltd, Flagship Building, 70 Harbour Drive, George Town, Grand Cayman, has undertaken due conflicts checks and diligence in relation to the Company and meet the residency, eligibility and insurance requirements of the Insolvency Practitioners Regulations, 2018. Angela Barkhouse also consents to her appointment as official liquidator.

Your Petitioner therefore humbly prays that:

1. The Company be wound up in accordance with the Companies Law, pursuant to sections 92 (d) or (e) thereof or otherwise.
2. Angela Barkhouse of Quantuma (Cayman) Ltd be appointed as official liquidator of the Company.
3. Costs of these winding up proceedings be paid by the Company to the Petitioner.
4. Such other orders and directions may be made as the Court thinks fit.

AND your Petitioner will ever pray etc.

Dated this 16th day of February 2021



Dentons

Attorneys for the Petitioner

NOTE: This petition is intended to be served on the Company.

This Petition was presented by Dinner Martin Attorneys v/a Dentons whose address for service is 3rd Floor, One Capital Place, Shedden Road, PO Box 10190, Grand Cayman, KY1-1002, Cayman Islands, Attorney for the Petitioner.

NOTICE OF HEARING

TAKE NOTICE THAT the hearing of this petition will take place at the Law Courts, George Town, Grand Cayman on at 10.00am.

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.