



IN THE GRAND COURT OF THE CAYMAN ISLANDS [FINANCIAL SERVICES DIVISION]
(MRHCJ)
CAUSE NO: FSD 110 OF 2023 ()

IN THE MATTER OF SECTION 92 OF THE COMPANIES ACT (2023 REVISION)

AND IN THE MATTER OF **ICONIQ Holding Limited**

WINDING UP PETITION

TO THE GRAND COURT

The Humble Petition of a Creditor of the Company, **Loop Capital Markets LLC** of 111, West Jackson Blvd, Suite 1901, Chicago, IL 60604, United States of America (the "**Petitioner**") shows that:

A. INTRODUCTION

1. **ICONIQ Holding Limited** (the "**Company**") is a Cayman Islands exempted limited company incorporated on 11 March 2021 as an exempted limited company (Registration Number 373204. According to the company search on CORIS, the registered office of the Company is c/o Harneys Fiduciary (Cayman) Limited, P.O. Box 10240, 4th Floor, Harbour Place, 103 South Church Street, George Town, Grand Cayman, KY1-1002, Cayman Islands. 04). According to the records of the SEC and NASDAQ, the Company's registered office is at ICS Corporate Services (Cayman) Limited, PO Box 30746, 3-212 Governors Square, 23 Lime Tree Bay Avenue, West Bay, Grand Cayman KY1-1203, Cayman Islands. The Company was listed on a United States stock exchange and became a NASDAQ listed company, doing business as **NWTN, Inc.** on 14 November 2022 (hereinafter referred to as the "Closing Date").

2. The Company is indebted to the Petitioner in respect of Fees, Warrants and Expenses for investment banking and financial advisory services performed for the Company in connection with the Company's capital raising needs to ensure that the Company became a publicly traded company of a United States stock exchange pursuant an agreement between them dated 11 February 2022 and an Addendum Letter dated 5 August 2022 (collectively the "**Engagement Letter**" or the "**Agreement**").
3. As a result of the Petitioner's services provided for the Company pursuant to the Engagement Letter, the Company was publicly listed on a United States stock exchange on the Closing Date. As of the Closing Date and pursuant to the Engagement Letter, the Company was indebted to the Petitioner for Fees and Expenses in the sum of US\$10,065,970.28 and the Company was further obliged to pay additional compensation in the form of Warrants totaling 2,000,000 units as more specifically particularised in paragraph 3 (b) of the Engagement Letter ("the **LCM Warrants**").
4. The founder, executive director and CEO of the Company is Mr. Alan Nan Wu ("**Mr. Wu**"). According to the Notes to the unaudited condensed consolidated financial statements filed as Amendment No 2 to the Form F-4 Registration Statement filed with the US SEC under the Securities Act of 1933, the Company's authorised share capital was stated to be the following:

"As of June 30, 2022 and December 31, 2021, 50,000,000 Class A Ordinary Shares and 285,164 Class B Ordinary Shares were issued at par value, equivalent to share capital of US\$33,516. Holders of Class A ordinary shares and Class B ordinary shares have the same rights except for voting and conversion rights. Each Class A ordinary share is entitled to eight votes; and each Class B ordinary share is entitled to one vote and are convertible into one Class A ordinary share at any time by the holder thereof. Class A ordinary shares are not convertible into Class B ordinary shares under any circumstances."

5. The Company's business headquarters are in Dubai, the United Arab Emirates and it is a Smart Passenger Vehicle ("**SPV**") company which "... offer[s] innovative vehicle designs that integrate technologies such as digital connectivity and autonomous driving that will deliver outstanding travel experience to passengers. Our long-term mission is to create a passenger- centered ecology through a more enlightened and high-tech way of life with our SPVs being the carrier of such progression." The Company is in the midst of developing a portfolio of electrical vehicles and SPVs which will "be equipped with autonomous driving technology and digital connectivity through collaboration with strategic partners."
6. The Company conducts its operations through its headquarters in Dubai (ICONIQ Green Zone Technology FZCO), and via its various subsidiary entities incorporated in Hong Kong and the People's Republic of China (the "**PRC**").

The Petitioner

7. The Petitioner is a limited liability company in the United States of America with its registered office at Cogency Global Inc., 850 New Burton Road, Suite 201, Dover, Delaware 19904.
8. The Petitioner provides investment banking services as part of the wider Loop Capital Group. The Petitioner provides a full range of financial advisory services to its clients across a broad range of sectors, including brokerage, public finance, asset management, and equity sales and trading services.

B. THE ENGAGEMENT LETTER BETWEEN THE PETITIONER AND THE COMPANY

9. On 11 February 2022, the Company engaged the Petitioner to provide investment banking and financial advisory services in connection with the Company's objective to become a publicly traded company on a United States stock exchange. The terms of this engagement were set out in an agreement dated 11 February 2022 (hereinafter referred to as the "**Engagement Letter**" or the "**Agreement**" dated 11 February 2022 signed by the Petitioner and the Company).

10. The material terms of the Engagement Letter included, inter alia, the following terms:
- (I) To pursue the Company's objective to become a publicly traded company on a United States stock exchange, the Petitioner was to work with the Company to pursue one of four structures (or a hybrid thereof) as set out in the Engagement Letter as follows:
- 1.) To conduct a private placement and subsequently to then take the company through an initial public offering process; or
 - 2.) To advise the Company on a reverse merger with a public shell, raise capital in a private investment in a public entity (PIPE) and pursue an up listing onto a United States national stock exchange; or
 - 3.) To work as a sell-side adviser to the company to identify SPAC targets for a business combination and once a business combination agreement was signed, the Petitioner would work with the Company to raise capital as may be necessary via a PIPE.
 - 4.) To work as a financial advisor to the Company to identify short-term financing options and Pre-IPO investors providing liquidity before completion of de-SPAC process.
- (II) In addition, as further and subject to the conditions set forth in Section 4 of the Engagement Letter, the Company shall first offer to engage the Petitioner as underwriter and book running manager in the case of its initial public offering with the terms and condition of any such engagement set forth in an agreement to be entered into by the parties.
- (III) On the basis of the representations and warranties contained in the Engagement Letter, the Petitioner accepted the engagement and, in connection therewith and to the extent requested by the Company and appropriate under the circumstances, agreed to assist the Company with respect to the following:
- (a) reviewing and analyzing the business, financial condition and prospects of the Company;

- (b) advising and assisting the Company in considering the desirability of effecting a Financing, and, if the Company believes such Financing to be desirable, in developing and implementing a general strategy for accomplishing the Financing;
 - (c) preparing an investor presentation, confidential information memorandum and/or marketing materials (in each case, based entirely on information supplied by the Company) for distribution to potential participants in the Transaction ("*Prospects*") describing the Company, its business and financial condition (the "*Offering Materials*");
 - (d) identifying and contacting Prospects, in accordance with Section 2;
 - (e) soliciting and receiving offers to participate in the Transaction; and
 - (f) negotiating the financial aspects of the Financing for the Company;
 - (g) reviewing and providing input on the Company's presentation to investors, providing investor introductions, and scheduling investor meetings before and after listing;
 - (h) supporting the Company in implementing ESG policies and infrastructure.
- (IV) As compensation for the services to be provided by the Petitioner, the Company agreed to pay the Petitioner 2.5% of the aggregate price at which the Securities are sold by the Company to the Investor ("Aggregate Commitment") or any short term financing the Company receives which shall be payable upon the consummation of the Financing. The Petitioner originally suggested a 2% fee with a monthly retainer OR 2.5% with no retainer. The Company chose the latter option.
- (V) As additional compensation with respect to a consummated Financing, the Company agreed to issue to the Petitioner or its designees at the closing, warrants with an exercise period of five years (the LCM Warrants) to purchase that number of shares of common stock of the Company ("Shares") which equates to 5.0% of the aggregate number of Securities shares placed in the Financing whether directly or via convertible securities, options or warrants (in the case of convertible securities, options and warrants, the number of shares of common stock into which such convertible securities are convertible or for which such warrants are exercisable in the Financing.)

- (VI) In addition to the fees and warrants referred to above, the Company agreed to reimburse the Petitioner for all reasonable, out of pocket expenses as incurred in connection with the engagement, including but not limited to travel and communication expenses, printing expenses, roadshow expenses, due diligence expenses, background checks, courier charges and the reasonable fees and disbursements for LCM legal counsel, and also the reasonable fees and disbursements of any other consultants or third party services engaged by LCM; provided, that the aggregate amount of reimbursable expenses shall not exceed \$200,000 without the Company's prior written consent (such consent not to be unreasonably withheld or delayed). In any case, such invoice shall be paid in cash, in immediately available funds, promptly when due and such funds are non-refundable.
- (VII) The Agreement was effective from 11 February 2022, until its first anniversary, provided, however, (i) that unless so terminated as mentioned below, the Agreement shall automatically continue from month to month after the above initial one-year term, (ii) that commencing after the first 120 days of this engagement, either party may terminate the Agreement effective thirty (30) days after receipt of written notice to that effect by the non-terminating party, and (iii) that, except as provided in Section 9(b), the Agreement shall terminate automatically upon consummation of a Financing or series of related Financing in which the Petitioner receives in the aggregate the Placement Fee. The Engagement Letter was not terminated prior to this date and the relevant events occurred during the period of the engagement.
- (VIII) The Company agreed to pay all amounts owed under the Engagement Letter, whether fees or expenses, without demand, set off and without deduction for any withholding, value-added or other similar taxes, charges, fees or assessments.

C. SERVICES PROVIDED BY THE PETITIONER

11. In the time between the signing of the Engagement Letter and the Closing Date, the Petitioner discharged its obligations under the Engagement Letter by performing and/or providing the services to the Company as set out in the Engagement Letter as it deemed necessary and appropriate. By way of example only, the Petitioner undertook the following key work streams in accordance with the terms of the Engagement Letter:

- (a) throughout the Company's engagement of the Petitioner's services, the Petitioner organised and attended regular update calls and introductions with the Company and other related parties, in part to ensure the overall progress of the project was on track.
- (b) In April 2022, the Petitioner had multiple discussions with Brandon Dong and Peter Chen regarding SPAC or traditional IPO to access public markets.
- (c) In September 2022, one of the Petitioner's employees travelled to Dubai/Abu Dhabi.
- (d) In November 2022 the Petitioner's employees had: (i) numerous calls with Brandon Dong, Sherman Lu & Peter Chen regarding NASDAQ listing requirements; (ii) numerous calls with SPAC investors to provide incentives to stay in trust versus redeeming ; (iii) numerous calls with Brandon Dong, Sherman Lu & Peter Chen regarding potential structures to incent investors to help meet listing requirements; (iv) calls with the head of capital markets at NASDAQ to discuss trading behavior of ESSC and listing requirements; and (v) calls with Sherman Lu & Brandon Dong regarding short interest in ESSC.
- (e) The Petitioner had various Working Group meetings. For example, in March 2022 there were meetings with China Renaissance and advisors; between January 2022 and December 2022, there were weekly meetings between the Company and the Petitioner. After the closing, the Petitioner provided the Company with a public company tutorial to help prepare for life as a public company.
- (f) In relation to SPAC introduction, the Petitioner facilitated calls with Atlantic Coastal and analyzed term sheets for other SPACS, including business combination partner, East Stone Acquisition
- (g) In relation to investors, the Petitioner introduced the Company to 3i and to DeNovo in Dubai, but the Company refused the latter engagement. The Petitioner facilitated the analysis of White Lion terms and brought several investors.
- (h) The Petitioner held multiple teach-ins with its salespeople and multiple meetings with its research analysts both prior to and after the SPAC closing.
- (i) The Petitioner made introductions to ICR and offered an introduction to a Chinese factory JV.

- (j) The Petitioner reviewed and helped prepare and improve marketing materials including presentations and videos.
 - (k) An employee of the Petitioner was invited to join the Company's Board of Directors.
 - (l) The Petitioner's team was invited to the opening ceremony for the Company's listing and to the "closing party" on 14 November 2022.
12. The actions of the Petitioner and the Company were at all times consistent with the understanding that the Petitioner was discharging its obligations in accordance with the Engagement Letter and that the Petitioner's work was integral to the ultimate successful listing of the Company as a publicly funded company on a United States stock exchange. At no point prior to the listing of the Company on a United States stock exchange did the Company make any complaints about the quality of the Petitioner's services or otherwise seek to terminate or vary the terms of the Engagement Letter, which therefore remained in full force and effect.

D. FAILURE TO PAY THE PETITIONER'S FEES, EXPENSES AND WARRANTS.

13. As a result of the successful listing of the Company on NASDAQ on the Closing Date, the Company's obligation to pay the Petitioner the aforesaid Fees and Expenses of US\$10,065,970.28 and to issue Warrants totaling 2,000,000 units crystallized.
14. On 6 November 2022, the Petitioner issued the following invoices which were payable upon the closing date:
- a. Invoice dated 4 November 2022 for US\$10,000,000.00 million in fees earned under the Engagement Letter;
 - b. Invoice dated 4 November 2022 for 2,000,000 Warrants also due under the Engagement Letter.

Thereafter, an invoice of Winston & Strawn LLP dated 15 December 2022 in the sum of US\$65,970.28 was sent to the Company for payment pursuant to clause 5 of the Engagement Letter as amended and agreed by the Company on 5 August 2022 in the Addendum to the Agreement.

15. Despite the Invoices being rendered on 6 November 2022 and the Company being listed on NASDAQ on the Closing Date on 14 November 2022, no payment has been received in whole or in part by the Petitioner.
16. Mr. Michael Jackson telephoned ICONIQ several times and he explained that it was highly unusual not to receive the payment on the closing date and that it was atypical not to receive payment out of the escrow funds. Mr. Peter Chen assured Mr. Michael Jackson that there were no issues with the invoices but they had to be processed by the Company's headquarters. In fact, Mr. Peter Chen also told Mr. Michael Jackson that that the Company DBA NWTN would be carrying a \$10mm payable on its 31 December 2022 balance sheet that related to the sums owed by the Company to the Petitioner. No payments were made to the Petitioner.
17. Additionally, upon receipt of the Invoices, the Company did not make any complaints about the services which the Petitioner had performed and did not dispute the amounts were due and owing. To the contrary, the Petitioner was assured that the Invoices would be paid: (a) Mr. Brandon Dong had a call with Mr. Michael Jackson (Managing Director of the Petitioner's Equity Division) both directly prior to the listing and post listing detailing the payment process. The Petitioner was asked to present the invoices so that Mr. Brandon Dong could begin processing on or around 6 November 2022; (b) Mr. Michael Jackson had weekly calls post-close with Mr. Peter Chen to discuss the invoices and was always reassured and given additional advice on how to proceed with Mr. Wu; (c) Mr. Michael Jackson also had a call with Mr. Wu on 23 December 2022 to discuss the invoices and Mr. Michael Jackson was reassured that the invoices would be resolved; (d) Mr. Peter Chen introduced Mr. Michael Jackson to Mr. Dennis Zhang in the UAE, at ICONIQ headquarters, with the understanding that he was handling the payment of the invoices. Mr. Dennis Zhang sent Mr. Michael Jackson back to Mr. Peter Chen; and (e) again, at no time did any of the Company's executives or its Board of Directors indicate that the invoices were incorrect, invalid or should not be paid. And at no time did they indicate they were dissatisfied with the Petitioner's services.

Demand Letter

18. On 17 January 2023, the Petitioner sent a demand letter by Email and FedEx International Express Mail to Mr. Wu (as Chairman and CEO of the Company), Mr. Peter Chen and Mr. Brandon Dong ("**Demand Letter**"). That letter demanded that the Company pay Fees totaling US\$10,000,000.00 and Warrants totaling 2,000,000 units, and invoices for Legal Expenses per Section 5 of the Engagement Letter totaling US\$65,970.28.

Statutory Demand dated 31 March 2023

19. Having received no response to the Demand Letter, on 31 March 2023, the Petitioner served a Statutory Demand on the Company demanding payment of **US\$10,069,870.28** and **Warrants totaling 2,000,000 units**. The Company failed to comply with the Statutory Demand by the deadline of 21 April 2023.
20. As at the date of the presentation of this Petition, the whole amount due and owing to the Petitioner remains unpaid.
21. Instead of complying with the Statutory Demand on or before 21 April 2023, the Company sent an email on 14 April 2023, and only after service of the Statutory Demand on 31 March 2023, Mr. Chen sent an email on behalf of the Company to the Petitioner alleging for the first time "performance issues."
22. The Company was clearly content with the services performed by the Petitioner as on 31 August 2022, when the Company invited members of the "Loop team" to attend the opening ceremony of the Company's KIZAD SKD factory on 5 September 2022 and witness its first facility in UAE and test drive the Company's first car to be assembled in UAE. The Company also invited the Petitioner's staff to the Closing Party at the NYSE on 14 November 2022.
23. The inescapable fact is that the Company throughout the nine (9) month engagement voiced no concerns about the Petitioner's performance and the Petitioner fulfilled its obligation as set out in the Engagement Letter to secure the Company's Listing on a United States stock exchange. The Company became a NASDAQ listed company on 14 November 2022 as may be seen from the photograph attached to this Petition as Appendix A.

D. CONCLUSION**Grounds for Winding up**

24. As at the date of the Petition, the Company owes **US\$10,069,870.28** and **Warrants totaling 2,000,000** units as particularised on page 3 of the Statutory Demand dated 31 March 2023 and all further legal costs incurred by the Petitioner after service of the Statutory Demand from 1 April 2023 (the "**Debt**") until the Debt is paid in full.
25. The Company has not paid or satisfied the Debt in full or in part, nor has it made any offer or presented any proposal to secure or compound the same.
26. This is the third Winding-Up Petition that has been presented against the Company this year by service providers engaged by the Company related to it being listed on NASDAQ.
27. In the circumstances, pursuant to sections 93(a) and/or (c) of the Companies Act (2023 Revision) the Company is deemed to be unable to pay its debts and is therefore insolvent and should be wound up, pursuant to section 92(d) of the Companies Act.

Nomination of Liquidators

28. The Petitioner nominates **Robert Shifman** and **Mitchell Mansfield** both of **Kroll (Cayman) Ltd.** of 3rd Floor, 90 North Church Street, George Town, Grand Cayman, KY1-1204, Cayman Islands.

YOUR PETITIONER THEREFORE HUMBLY PRAYS THAT:

1. The Company be wound up pursuant to section 92(d) of the Companies Act (2023 Revision).
2. **Robert Shifman** and **Mitchell Mansfield** both of Kroll (Cayman) Ltd. of 3rd Floor, 90 North Church Street, George Town, Grand Cayman, KY1-1204, Cayman Islands be appointed as Joint Official Liquidators ("JOLs") of the Company.

3. The JOLs shall not be required to give security for their appointment.
4. The JOLs have the power to act jointly and severally in their capacity as liquidators of the Company.
5. The JOLs be authorised to take any such action as may be necessary or desirable to obtain recognition of the JOLs and/or their appointment in any other relevant jurisdiction and to make applications to the courts of such jurisdictions for that purpose.
6. The JOLs be authorised to exercise all of the powers set out in paragraphs 2, 4, 7, 10 and 11 of Part 1 of the Third Schedule to the Companies Act and section 110(2) thereof, without further sanction or intervention of this Honourable Court.
7. The JOLs be authorised to do any act or thing considered by them to be necessary or desirable in connection with the liquidation of the Company and the winding up of its affairs in the Cayman Islands and/or elsewhere.
8. Without prejudice to the generality of the foregoing, the JOLs be authorised and be granted leave to take all such actions as may be necessary to:
 - (a) bring or defend any action or other legal proceeding in the name and on behalf of the Company and to engage attorneys for such purposes in order to secure the assets of the Company including but not limited to winding up proceedings against the directors of the Company (if appropriate);
 - (b) take all action required consistent with applicable law to carry on the business of the Company so far as may be necessary for its beneficial winding up;
 - (c) take all action on behalf of the Company in the name of and to the exclusion of the directors of the Company which shall forthwith have no authority or power to act in relation to the Company other than at the direction and with the consent of the JOLs;
 - (d) investigate the affairs of the Company and its direct and indirect subsidiaries, including without limitation the Company's wholly foreign owned enterprises located in the PRC (together the "Group");

- (e) to exercise the rights to which a registered holder of any shares or other securities registered in the name of the Company or any of its segregated portfolios, 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 (including, without limitation, the directors of the Company) to exercise all or any such rights as the JOLs shall direct;
 - (f) take steps to locate, demand and secure cash held by all Group companies in all bank accounts in the Cayman Islands, Dubai, Hong Kong, the PRC, or elsewhere;
 - (g) pass resolutions appointing themselves or their nominees as directors and/or liquidators of its subsidiaries in accordance with the terms of their constitutional documents and the laws of their incorporation;
 - (h) communicate on the Company's behalf with the regulators as appropriate;
 - (i) liaise with management of the Group to stabilise and preserve value in the onshore business of the Company and Group;
 - (j) negotiate with key non-PRC based and PRC-based creditors;
 - (k) make applications to, and seek the assistance and recognition from, the courts of any foreign jurisdictions as may be necessary in the course of their conduct as JOLs of the Company or for the purposes of carrying out any of the functions provided for herein; and
 - (l) raise or borrow money and grant securities therefor over the property of the Company for the purpose of funding the costs and expenses of the liquidation (including as to the JOLs' remuneration).
9. The JOLs be at liberty to appoint such counsel, attorneys, 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 in accordance with Order 25 of the Companies Winding Up Rules, 2018 (as amended).

10. No disposition of the Company's property and no transfer of the Company's shares by or with the authority of the JOLs in the carrying out of their duties and functions and the exercise of their powers shall be avoided by virtue of section 99 of the Companies Act.
11. Subject to section 109(2) of the Companies Act and the Insolvency Practitioner's Regulations 2018 (as amended), the JOLs be authorised to render and pay invoices out of the assets of the Company for their own remuneration.
12. The JOLs be at liberty to meet all disbursements reasonably incurred in connection with the performance of their duties and, for the avoidance of doubt, all such payments shall be made as and when they fall due out of the assets of the Company as an expense of the liquidation.
13. The JOLs be at liberty to apply generally.
14. The Petitioner's costs of and incidental to the Petition should be paid out of the assets of the Company as an expense of the liquidation, such costs to be taxed on an indemnity basis if not agreed.
15. Such further or other relief as this Honourable Court deems fit.

AND your Petitioner will ever pray etc.

DATED the 3rd day of May 2023
FILED the 3rd day of May 2023

Ritch & Conolly LLP

RITCH & CONOLLY LLP
Attorneys at Law for the Petitioner
Loop Capital Markets LLC

NOTE: This Petition is intended to be served on the Company at its registered office, or otherwise in accordance with any directions of the Honourable Court.

This Petition was presented by Ritch & Conolly LLP of 5th Floor, Queensgate House, 113, South Church Street, Grand Cayman, Cayman Islands, Attorneys at law for and on behalf of the Petitioner whose address for service is that of its said Attorney. Tel: +1 345 949 7366. [Ref:CB/MD]

NOTICE OF HEARING

TAKE NOTICE THAT the hearing of this petition will take place at the Law Courts,

George Town, Grand Cayman, on 21 June 2023 at 9:30 a.m.

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.