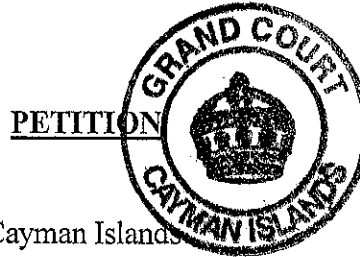


IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 701 OF 1999

IN THE MATTER OF THE COMPANIES LAW (1995 REVISION)

AND IN THE MATTER OF GRAND CAY DEVELOPMENTS LIMITED



To: Her Majesty's Grand Court of the Cayman Islands

The Petition of K. Coast Development Ltd. of P. O. Box 30058, Seven Mile Beach, Grand Cayman, B.W.I. shows that:-

1. Grand Cay Developments Limited (hereinafter called "the Company") was incorporated as an ordinary resident company on the 14th November, 1995 under the Companies Law.
2. The registered office of the Company is at SafeHaven, Leeward Building, West Bay Road, Grand Cayman, B.W.I.
3. The nominal capital of the Company is CI\$50,000.00 divided into 50,000 shares of CI\$1.00 each. The amount of the capital paid up or credited as paid up is CI\$100.00.
4. Although the objects of the Company are unrestricted, the principal purpose for which the Company was established was the development of land for residential and commercial purposes.
5. A winding-up order is sought on the following grounds:
 - (1) By a written contract dated the 27th day of August, 1996 between the Petitioner and the Company, the Petitioner agreed to carry out and complete construction of the Canal Point Centre, George Town, Grand Cayman, ("the Strand development").

- (2) By a further contract dated the 20th February, 1997 the Petitioner agreed to construct a residential development at Southampton Gardens, George Town, Grand Cayman (“Southampton Gardens development”).
- (3) By October 1997 when works were substantially complete in relation to the Strand and partially complete in relation to Southampton Gardens, the Company refused to make payments on certificates prepared by the Company’s quantity surveyors nominated under the said contract and refused to pay any element of profit. The Company maintained it owed nothing and certain differences arose.
- (4) In order to resolve their differences on the 14th April, 1998 the Petitioner and the Company entered into a written supplemental agreement, revoking and replacing the earlier written agreements, which contained *inter alia* the following terms:-
 - (i) BCQS were to prepare bills of quantities in respect of both the then completed and uncompleted Strand and Southampton Gardens developments pricing the same on an agreed “at cost” basis, essentially reflecting the rates and prices normally applicable in Cayman (clause 2).
 - (ii) BCQS would thereafter measure and value the works already completed by the Company at that date, having regard to the bill of quantities already prepared, and set out such value in a completed works certificate (clauses 4.1 and 4.2).
 - (iii) The Company would pay a percentage of the value of the completed work as the Petitioner’s profit (clause 4.4).
 - (iv) Having prepared the said completed works certificate BCQS would also issue a statement of the outstanding profit. (clause 4.2).

- (v) In the event that the total value of works certified by BCQS exceeded the amount already paid by the Company the balance together with the amount of outstanding profit would become payable within 14 days and be a debt due to the Petitioner (clause 4.3).
 - (vi) On being paid US\$200,000.00 by the Company on or about the 16th April, 1998, the Petitioner agreed to carry out the necessary work to complete the Southampton Gardens developments (“the Completion Works”; clause 8).
 - (vii) The Petitioner could at any time request BCQS to measure the Completion Works and certify the same with the consequence that the amount of work so certified and 50% of the profit element would then become payable (clause 10).
 - (viii) In the event of the Company failing to pay the amount certified as being due in respect of the Completion Works within 7 days the Petitioner was entitled to suspend work and within a further 7 days to terminate the agreement (clause 11.1).
 - (ix) In the event of the Petitioner terminating the contract in accordance with clause 11.1, the Company was liable for all the Petitioner’s loss and expenses including loss of profit as certified (clause 12).
- (5) Pursuant to the Supplemental Agreement the Company paid US\$200,000.00 to the Petitioner, BCQS prepared Final Bills of Quantities and the Petitioner commenced the Completion Works.
- (6) In July 1998 the Petitioner requested BCQS to measure the works undertaken in relation

to Southampton Gardens and thereafter BCQS issued a Certificate of Value No.1 (revised) dated the 16th July, 1998 in the sum of CI\$598,341.21 in respect of Southampton Gardens in accordance with clause 10. The amount of said sum became a debt due and payable on or before the 27th July, 1998 in accordance with clause 10.2.

- (7) The Company having failed to pay the sum due by the due date, the Petitioner suspended further work and by notice dated the 6th August, 1998 determined the contract in accordance with clause 11.1.
- (8) On the 10th September 1998 BCQS issued a Certificate of Value No. 2 in the amount of CI\$815,466.28 in respect of Southampton Gardens which became due and payable by the 21st September, 1998.
- (9) On 8th July 1999 BCQS issued the Final Bill of Quantities in relation to Southampton Gardens and on 5th February 1999 BCQS issued the Final Bill of Quantities in relation to the Strand.
- (10) On 24th May 1999 BCQS issued the certificates identified below the unpaid balances of which became due and payable as there set out:-
 - (i) Certificate No 1 valuing the works actually completed in relation to the Strand in the amount of CI\$6,993,310.29 of which CI\$6,109,651.83 had been paid. Accordingly the sum of CI\$883,658.46 became a debt due from the Company to the Petitioner on the 7 June, 1999.
 - (ii) Certificate of the Outstanding Profit No 2 due to the Petitioner in accordance with clauses 4.2 and 4.4 in relation to the Strand in the amount of CI\$785,320.22 which became due from the Company to the Petitioner on the 7 June, 1999.

- (iii) Certificate of Value of the works actually completed in relation to Southampton Gardens numbered 3 in the amount of CI\$5,401,991.13 of which CI\$4,248,898.51 has been paid. Accordingly, CI\$1,153,092.62 became due and payable on 7th June 1999.
 - (iv) Certificate of the Outstanding Profit due to the Petitioner numbered 4 in accordance with clauses 4.2 and 4.4 in relation to Southampton Gardens in the amount of CI\$494,256.83 which became due and payable as a debt due from the Company on 7 June, 1999.
 - (v) Certificate of Loss, Expense and Loss of Profit numbered 5 in accordance with clause 11.3 of the Supplemental Agreement relation to Southampton Gardens in the amount of CI\$186,836.81.
- (11) In accordance with clause 4 of the Supplemental Agreement, the Company became liable for the fees of BCQS. On or about 20th August 1999, the Petitioner paid the said sum of CI\$47,700.00 to BCQS. In the premises, that sum is due and owing by the Company to the Petitioner.
- (12) By reason of the aforesaid the Company is indebted to the Petitioner in total amount of CI\$3,550.864.94 all of which remains unpaid.
- (13) On or about 24 June 1999 the Petitioner demanded payment of each of the aforementioned sums.
- (14) Despite repeated requests, the Company failed to make any payment in respect of Certificates numbered 1 and 2.

- (15) In the premises the Company is unable to pay its debts.
- (16) In the circumstances, it is just and equitable that the Company should be wound up.

THE PETITIONER THEREFORE PRAYS THAT:-

- (1) Grand Cay Developments Limited may be wound up by the Court under the provisions of the Companies Law (1995 Revision).
- (2) G. J. Cleaver and L. Daniel Scott of Ernst & Young be appointed Official Liquidators of the Company with power to act jointly and severally.
- (3) The Official Liquidators shall not be required to give security for their appointment.
- (4) The Official Liquidators shall have power:-
 - (a) to bring or defend any action, suit, prosecution or other legal proceedings, whether criminal or civil, in the name and on behalf of the Company including but without prejudice to the generality of the foregoing:-
 - (i) petitioning to wind up and seek the appointment of liquidators (provisional or final) of any company in the event that the Official Liquidators are person capable of presenting such petition under the Companies Law (1995 Revised) or any other law in any jurisdiction;
 - (ii) obtaining any injunctive relief whether restrictive or mandatory which the court granting such relief considers appropriate for the protection of the assets of the Company;
 - (b) to take possession of, collect and get in all property or assets (of whatever nature) to which the Company is or appears to be entitled;

- (c) to do all things as may be necessary or expedient for the protection of the Company's assets;
- (d) to do all things (including the carrying on of the business of the Company) so far as may be necessary or expedient for the beneficial realisation of the property or assets of the Company (including power to borrow money);
- (e) to appoint attorneys, solicitors and other professional qualified persons both in the Cayman Islands and elsewhere to assist them in the performance of their duties;
- (f) to appoint agents both in the Cayman Islands and elsewhere to do any business which they are unable to do themselves or which can more conveniently be done by an agent and power to employ and dismiss officers and employees of the Company;
- (g) to make any payment which is necessary or incidental to the performance of their duties;
- (h) to open and maintain bank accounts in the name of the Company or themselves anywhere in the world as may be necessary for the better performance of their duties;
- (i) to exercise and execute all the powers set out in Section 108 of the Companies Law (1995 Revision) without sanction or intervention of the Court and unprejudiced by the generality hereof;
- (j) to compromise all calls and liabilities to calls, debts and liabilities capable of resulting in debts, and all claims whether present or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the Company and any contributory or alleged contributory or other debtor or person apprehending liability to the Company, and all questions in any way relating to or affecting the assets of the Company on the winding up of the

Company, upon receipt of such sums payable at such times and generally on such terms as may be agreed upon, with power to take securities for the discharge of such debts or liabilities and to give complete discharges in respect of all or any such calls, debts or liabilities; and

- (k) to execute all such other things as may be necessary for winding up the affairs of the Company and distributing its assets;

and for the avoidance of doubt the powers bestowed on the Official Liquidators may be exercised by them within and outside the Cayman Islands and may be exercised by all or any of them.

- (5) The Official Liquidators be at liberty to apply for further directions relating to the winding up of the affairs of the Company and the distribution of its assets.
- (6) The reasonable costs of the Petitioner of and incidental to the Petition be paid forthwith from the assets of the Company to be taxed if not agreed.
- (7) The Official Liquidators be at liberty to and do pay themselves, their agents, employees, attorneys, solicitors and whomsoever else they employ or instruct, remuneration and costs in priority to all other debts of the Company pursuant to Section 122 of the Companies Law (1995 Revision), and:-
 - (i) the remuneration of the Official Liquidators and their agents, employees, attorneys, solicitors and whomsoever else they employ or instruct locally in connection with the performance of their duties be fixed and approved at the rate or rates ordinarily charged by such persons;
 - (ii) the remuneration of any other agent, employee, attorney, solicitor or whomsoever else may be employed or instructed by or on behalf of the Official Liquidators in connection with the performance of their duties be fixed and approved at the rate

or rates in the country in which such person is ordinarily employed or engaged in practice;

- (iii) the Official Liquidators be at liberty to pay themselves, their agents, employees, attorneys, solicitors and whomsoever else they employ or instruct either weekly or monthly or at such other intervals as they consider appropriate;
- (iv) the Official Liquidators be at liberty to meet all disbursements reasonably incurred in connection with the performance of their duties;

and for the avoidance of doubt all payments made pursuant to paragraphs 7 (i) – (iv) above shall be made as and when they fall due out of the assets of the Company and shall be expenses in the Liquidation.

- (8) Such other orders and directions may be made as the Court thinks fit.

Dated this _____ day of November, 1999.

Myers & Alberga
Attorneys-at-Law for the Petitioner

To: The Clerk of the Grand Court

And To: Grand Cay Developments Limited

NOTE: It is intended to serve this Petitioner to Grand Cay Developments Limited at its registered office.

INDORSEMENT

This Petition having been presented to the Court on the 16th day of November, 1999, will be heard at the Law Courts, George Town, Grand Cayman on the _____, 1999 at ____ a.m./p.m. or as soon thereafter as the Petition can be heard.

This Petition is filed by Myers & Alberga, Attorneys-at-Law for and on behalf of the Petitioner whose address for service is care of MYERS & ALBERGA, Attorneys-at-Law, One Regis Place, P.O. Box 472, George Town, Grand Cayman, Cayman Islands, B.W.I.