

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. <sup>103</sup> OF 2001

IN THE MATTER OF THE COMPANIES LAW (2000 REVISION)

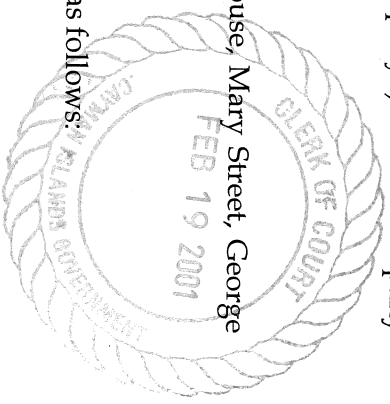
AND IN THE MATTER OF BROWN SIMPSON STRATEGIC GROWTH FUND, LTD.

PETITION

To: The Grand Court of the Cayman Islands

The humble Petition of Raja S. Baba of Ibn Rushd Street - Blot 1, Al Shehab Building #20, 5th Floor, Flat 9, Hawalli, Kuwait, shows that:

1. Brown Simpson Strategic Growth Fund, Ltd. ("the Company") is a Company incorporated under the Companies Law (1995 Revision).
2. The registered office of the Company is situate at Walker House, Mary Street, George Town, Grand Cayman.
3. The Articles of Association of the Company provide, *inter alia*, as follows:



"INTERPRETATION

1. (a) The Regulations contained or incorporated in Table "A" in the First Schedule of the Companies Law (1995 Revision) shall not apply to this Company and the following Regulations shall comprise the Articles of Association of the Company.

(b) In these Articles the words standing in the first column of the Table next hereinafter contained, shall bear the meanings set opposite to them respectively in the second column hereof, if not inconsistent with the subject or context.

Words

Meanings

**Business Day** Any day on which the banks in New York and the Cayman Islands are open for business or such other day as may be determined by the Directors.

**Redemption Day** Any day on which Shares may be redeemed pursuant to Article 30.

**Redemption Price** The price at which Shares shall be redeemed calculated in accordance with these Articles.

**Valuation Day**

Each Subscription Day, Redemption Day or other day as may be determined by the Directors in their sole discretion.

**SUBSCRIPTION/REDEMPTION DAYS**

18. Except as otherwise agreed by the Directors all issues of Shares shall be effected on Subscription Days and all redemptions of Shares shall be effected on Redemption Days.

**ISSUE OF SHARES**

22. The Directors may issue fractions of a Share of any class and, if so issued, a fraction of a Share shall be subject to and carry the corresponding fraction of liabilities (whether with respect to nominal or par value, premium, contribution, calls or otherwise howsoever), limitations, preferences, privileges, qualifications, restrictions, rights (including, without prejudice to the foregoing generally, voting and participation rights) and other attributes of a whole Share of the same class. If more than one fraction of a Share of the same class is issued to or acquired by a Shareholder such fractions shall be accumulated. For the avoidance of doubt it is hereby declared that in these Articles the expression "Share" shall include a fraction of a Share.

**DETERMINATION OF NET ASSET VALUE**

29. (1) The Net Asset Value of the Company shall be determined by the Directors applying policies and methods to be determined in their sole discretion as at each Valuation Day and on such other occasions as the Directors may direct and shall be equal to the value of all the assets less all the liabilities of the Company, and shall be calculated in accordance with the provisions of the Explanatory Memorandum.
- (2) Net Asset Value per Class of Share shall equal the Net Asset Value of the Company attributable to that Class divided by the total number of the issued Shares of that Class and rounded up or down to the nearest cent in U.S. dollars.

**REDEMPTIONS**

30. (a) Subject to the provisions of the Law and subject as hereinafter provided, the Company shall on receipt by it or its authorised agent of a written request in such form as may be prescribed by the Directors from time to time or at the option of the Directors a request by telephone, by a holder of a Share ("the Applicant") redeem all or any portion of his Shares at the Redemption Price determined in accordance with paragraph (b) of this Article ("the Redemption Price") or procure the purchase thereof at not less than such Redemption Price.

**PROVIDED THAT**

- (i) A Shareholder who owns Class A Shares shall be entitled to redeem pursuant to this Article 30 all or any portion of the Class A Shares purchased by such Shareholder, upon 90 days' prior written notice to the Administrator, as of the last Business Day of each Month or such other day as the Directors or the Administrator may from time to time determine.
- (v) Subject as hereinafter in this Article provided the Applicant shall not be entitled to withdraw a request duly made in accordance with this Article:
- (vi) If the determination of the Redemption Price is suspended beyond the day on which it would normally occur by reason of a declaration by the Directors pursuant to these Articles the right of the Applicant to have his Shares redeemed or purchased pursuant to this Article shall be similarly suspended and during the period of suspension he may withdraw his request for redemption. Any withdrawal of a request for redemption under the provisions of this Article shall be made in writing and shall only be effective if

actually received by the Company or its duly authorised agent before termination of the period of suspension. If the request is not so withdrawn the redemption or purchase of the Shares shall be completed on the Redemption Day next following the end of the suspension;

- (vii) In the event of a Shareholder's redemption of 80% or more of his Shares, a distribution to the Shareholder will be made (i) within 30 days after the effective date of the redemption, in an amount equal to at least 80% of the Redemption Price and (ii) as promptly as practicable (but in no event later than 30 days) after completion of the audit for that Fiscal Year, the balance of the Redemption Price. In the event of a Shareholder's redemption of less than 80% of this Shares, the full Redemption Price will be distributed within 30 days after the effective date of the redemption. Delayed payments of the Redemption Price will earn interest as stated in the Explanatory Memorandum.
- (b) The Redemption Price for each Share shall be not less than the Net Asset Value per Share as on the relevant Redemption Day together with the amounts to be added or deducted on redemption as set forth in the Explanatory Memorandum.
- (c) The redemption or purchase of Shares under the provisions of this Article shall be deemed to be effected at close of business on the relevant Redemption Day or such other day as may be agreed or determined pursuant to these Articles at which time any Shares which are redeemed shall forthwith be cancelled.
- (e) Upon the redemption of a Share being effected pursuant to these Articles, the Applicant shall cease to be entitled to any rights in respect thereof (excepting always the right to receive a dividend which has been declared in respect thereof prior to such redemption being effected) and accordingly his name shall be removed from the Register with respect thereto and the Share shall be available for re-issue and until re-issue shall form part of the unissued Share capital of the Company.

**SUSPENSION OF ISSUE, REDEMPTION AND RE-PURCHASE RIGHTS  
OF SHAREHOLDERS**

- 31. The Directors may declare a suspension of the issue of Shares, the redemption of Shares and of the determination of the Net Asset Value for the whole or any part of a period during which:-
  - (b) There exists any state of affairs which constitutes a state of emergency as a result of which (1) disposal of a substantial part of the investments of the Fund would not be reasonably practicable and might seriously prejudice the Shareholders of the Fund or (2) it is not reasonably practicable for the Fund fairly to determine the value of its net assets;In addition, the Directors may, to the extent that a redemption of Shares may adversely affect the Company, amend, modify or restrict the terms and conditions of redemption to the extent deemed necessary or desirable.
- 32. Any such suspension shall take effect at such time as the Directors shall declare but not later than the close of business on the Business Day next following the declaration and thereafter there shall be no determination of the Net Asset Value until the Directors shall declare the suspension to be at an end except that the suspension shall terminate in any event on the first Business Day on which:-
  - (a) the condition giving rise to the suspension shall have ceased to exist; and
  - (b) no other condition under which suspension is authorised under the immediately preceding Article shall exist."

4. Prior to 26 July 2000, the Petitioner acquired 412.09462 Class 'A' Shares ("the Shares") in the Company.
5. On 26<sup>th</sup> July 2000, the Petitioner made a written request ("the Request") to the Company that it should redeem such of the Shares as would produce US\$1,000,000.00 on the relevant Redemption Day.
6. In the premises:
  - (1) the relevant Redemption Day was 31<sup>st</sup> October 2000;
  - (2) such of the Shares as have an aggregate Redemption Price of US\$1,000,000.00 were redeemed as at close of business on 31<sup>st</sup> October 2000;
  - (3) the Petitioner thereupon became a creditor of the Company in the sum of US\$1,000,000.00 of which "at least 80%" was payable within 30 days after 31<sup>st</sup> October 2000.
7. In a letter to the Petitioner dated 13<sup>th</sup> October 2000, the Company, acting by Brown Simpson Asset Management NLC, confirmed the Request. The said letter further stated:

"We will withdraw One Million Dollars (\$1,000,000.00) from your account in the Fund, effective October 31, 2000 (based on its value as of October 31, 2000). We will wire out the funds on or about November 1, 2000 as we had previously discussed."

By an e-mail message to the Petitioner dated 16<sup>th</sup> October 2000, the Company, acting as aforesaid, stated that it would "send in the wire transfer instructions first thing on November 1."

8. On 9<sup>th</sup> November 2000, the Company, acting as aforesaid, purported to suspend the redemption of its shares. Such suspension, even if otherwise effective, was incapable of prejudicing the rights of the Petitioner as an existing creditor of the Company.
9. Despite demands for payment from the Petitioner's U.S. attorneys dated 17<sup>th</sup> November, 2000 and the Petitioner's Cayman attorneys dated 6<sup>th</sup> February 2001, the Company has failed to pay the debt due to the Petitioner or any part thereof.
10. The Company is unable to pay its debts.
11. In the circumstances, it is just and equitable that the Company should be wound-up.

YOUR PETITIONER THEREFORE HUMBL Y PRAYS as follows:

1. That Brown Simpson Strategic Growth Fund Ltd. be wound-up by the Court in accordance with the provisions of the Companies Law (2000 Revision).
2. That some fit and proper person be appointed Official Liquidator of the Company with such powers and upon such terms (including terms as to remuneration) as the Court thinks fit.
3. That the costs of the Petitioner and of the Petition be paid out of the assets of the Company.
4. Such further and/or other relief as the Court thinks fit.

NOTE: This Petition is intended to be served on the Company and the Registrar of Companies



**QUIN & HAMPSON**

**Attorneys for the Petitioner**

NOTICE OF HEARING

This Petition having been presented to the Court on the 19th day of February 2001 will be heard at the Courthouse, George Town, Grand Cayman on the            day of            2001 at 10.00 o'clock in the forenoon or as soon thereafter as the Petition can be heard.

This Petition is filed by Quin & Hampson, Attorneys-at-Law for and on behalf of the Petitioner herein whose address for service is c/o her Attorneys-at-Law, Third Floor, Harbour Centre, P.O. Box 1348, George Town, Grand Cayman.