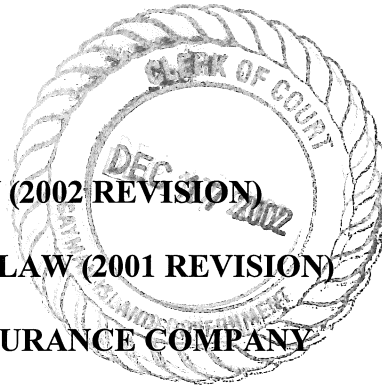


IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: ⁹¹⁵ OF 2002

IN THE MATTER OF THE COMPANIES LAW (2002 REVISION)
AND IN THE MATTER OF THE INSURANCE LAW (2001 REVISION)
AND IN THE MATTER OF BENCHMARK INSURANCE COMPANY



PETITION

TO: HER MAJESTY'S GRAND COURT OF THE CAYMAN ISLANDS

The Humble Petition of THE GOVERNOR-IN-COUNCIL OF THE CAYMAN ISLANDS (hereinafter called "the Petitioner")

SHOWETH as follows:

1. Benchmark Insurance Company (the "Company") is an Exempted Cayman Islands Company that was incorporated on November 6, 1986. The Company's principal activity was the reinsurance of professional liability business risks on a claims-made basis from Unisource Insurance Company ("Unisource"), an insurance company licensed in Florida and managed by Madio & Company. The Company was granted an Unrestricted Class "B" Insurer's Licence on March 20, 1987, with effect from November 6, 1986.
2. The registered office of the Company is BritCay Management Ltd ("BritCay"), P.O. Box 10139 APO, BritCay House, Grand Cayman, Cayman Islands. BritCay is also the insurance manager for the Company. The Company was formerly managed by Cayside Insurance Management Ltd ("Cayside") prior to Cayside being purchased by BritCay.
3. The Register of Members of the Company shows that there are numerous individual shareholders. The Authorised Share Capital of the Company is 900,000 ordinary shares of US\$1 each. The issued and fully paid share capital is 434,408 shares.

4. An extract of the Register of Directors of the Company is as follows:

Name	Appointed	Resigned
Jack H. Soutar	November 11, 1986	January 4, 2001
Samuel M. Meline	November 11, 1986	January 4, 2001
James E. Strother	December 14, 1990	January 4, 2001
Robert J. Blank	November 11, 1986	January 4, 2001
Dean C. Fulton	December 3, 1998	January 4, 2001
Ralph R. Madio	November 11, 1998	
Russ R. Madio	December 3, 1998	January 4, 2001
Mark L. Cohen	December 3, 1998	January 4, 2001

As a result, since January 4, 2001, Ralph R. Madio has been the only director of the Company. Mr. Madio resigned subsequently on September 27, 2002.

5. The Company's external auditors are KPMG, Cayman (the "Auditors"). The most recent signed audited financial statements were for the year ended December 31, 1999. The Company had also filed audited accounts for the year ended December 31, 2000, but these were subsequently recalled by the Auditors. The Auditors stated that the recall was required as the sole director had apparently misrepresented the level of reserves. As at the date of this application, the Auditors have not re-issued the audited financial statements for the year ended December 31, 2000. In addition the audited financial statements for the year ended December 31, 2001 are also outstanding.
6. In August 2000, the Authority became aware that Unisource had been placed under the administrative supervision of the Insurance Department of the State of Florida effective March 28, 2000. The Authority learned at a later date that the reason for the administrative supervision was for a statutory net worth violation.
7. On November 10, 2000, as a result of a number of issues identified by the Authority, the Company's licence was suspended in order to protect the current financial position of the Company and to prohibit the Company from entering into any new business or making any disbursements.
8. The Authority was advised in a letter dated January 2, 2001 from Cayside that funds were received into an escrow account as consideration for the purchase of the existing shares in the Company. The letter went on to state that the funds would remain in escrow until approval for the new shareholders was received from the Authority. A subsequent letter from Cayside, dated February 26, 2001 requested, among other things, confirmation from the Authority that the new shareholder had been approved. The Authority responded to Cayside in a letter dated March 21, 2001 that confirmed the proposed new shareholder had not yet been approved and that it would be prudent to continue to hold the funds in escrow until the Authority granted approval for the change in ownership.

9. In August 2001, the Authority became aware that the Seminole Tribe of Florida (the "Tribe") had purchased 420,668 issued shares of the Company from the existing shareholders effective March 31, 2001. The Authority had not approved the change in shareholding due to concerns with capitalisation of the company and the lack of a business plan. As far as the Authority is aware, the directive for the funds to be held in escrow pending its approval of the new shareholder was ignored.
10. In a letter from Cayside dated October 25, 2001, the Authority was advised that effective September 25, 2001, Unisource had been placed into Rehabilitation by the Insurance Department for the State of Florida (the "Receiver").
11. In a letter from BritCay dated April 9, 2002, the Authority was provided with management financial statements for the Company for the year ended December 31, 2001. These accounts revealed a significantly reduced net worth position from the position as at December 31, 2000.
12. On July 29, 2002, BritCay provided the Authority with a report from the lawyers acting on behalf of the Company's shareholders. The report stated that the Leon County Circuit Court (the "Florida Court") had ruled that the funds received as a result of the attempted sale of Unisource to the Tribe were rightfully the property of the Receiver for Unisource. The Florida Court expressed the belief that the funds at issue were really the property of the Tribe, but it could not be returned to them, as they had not claimed the funds in this proceeding. The Florida Court reasoned that the funds constitute a "windfall" to either party involved in the litigation, and concluded that the Receiver should benefit from this "windfall" instead of the shareholders.
13. On August 20, 2002, the Governor in Council, upon the request of the Authority, appointed Messrs, G. James Cleaver and Gordon I. MacRae of E & Y Restructuring Ltd. (the "Controllers") under Section 11(1)(vii) of the Insurance (Amendment) Law 2001 (the "Law") to assume control of the Company. The Controllers were notified of their appointment on September 9, 2002.
14. The Controllers submitted an interim report dated September 23, 2002 (the "Interim Report"). It addressed the current financial position of the Company. The Controllers made adjustments to reflect the fact that the investments held in the name of Unisource were not likely recoverable due to its financial condition and the fact that it is now in liquidation. The Controllers also made a provision for the return of funds to Unisource that had been received by the Company regarding the sale of Unisource to the Tribe. Upon incorporating these and other adjustments, the Controllers have estimated that the Company has a net shareholders deficit of US\$589,718 as at September 9, 2002.
15. The Controllers concluded, based on the above, that the correct course of action would be to place the Company in liquidation.
16. The Unrestricted Class "B" Insurer's Licence held by the Company was revoked effective October 30, 2002

17. Pursuant to Section 11(4)(d) of the Law, the Petitioner applies under Section 94 of the Companies Law (2002 Revision) for the Company to be wound up by the Court on the grounds that it is just and equitable for the following reasons:

- (1) Based on the information currently available, the Controllers believe that the Company is insolvent.
- (2) The Company has no directors.
- (3) The Company has lost its only source of business and has no plans to continue as a going concern – the sub-stratum of the business is gone.
- (4) It is expedient in the public interest that the Company be wound up.

YOUR PETITIONER THEREFORE HUMBLY PRAYS as follows: -


- (a) That Benchmark Insurance Company be wound up by the Court subject to the provisions of the Companies Law (2002 Revision);
- (b) That Messrs. G. James Cleaver and Gordon I. MacRae of E & Y Restructuring Ltd., be appointed as Joint Official Liquidators of the Company, and that the Joint Official Liquidators be authorised to do any acts or things jointly and severally considered by them to be necessary or desirable in connection with the liquidation of the Company and the winding up of its affairs;
- (c) That the Joint Official Liquidators shall not be required to give security for their appointment;
- (d) That the Authority and the Petitioner be at liberty to apply to the Court at any time, *inter alia*, for the removal of the Joint Official Liquidators;
- (e) That the Joint Official Liquidators be authorised to exercise jointly and severally all the powers set out in Section 109 of the Companies Law (2002 Revision) without further sanction or intervention of this Honourable Court;
- (f) That the Joint Official Liquidators do file with the Clerk of the Court a report in writing of the position of and the progress made with the winding up of the Company and with the realisation of the assets thereof and as to any other matters connected to

the winding up of the Company, every six calendar months or as the Court may from time to time direct;

- (g) That the Joint Official Liquidators be at liberty to and do pay themselves, their agents, employees, attorneys, solicitors and whomsoever else they may employ or instruct, remuneration and costs in priority to all other debts of the Company pursuant to Section 123 of the Companies Law (2002 Revision), and:
 - (i) the Joint Official Liquidators be entitled to remuneration of their reasonable fees;
 - (ii) the Joint Official Liquidators be at liberty to pay their agents, employees, attorneys, solicitors and whomsoever else they employ or instruct either weekly or monthly or at such intervals as they consider appropriate;
 - (iii) the Joint Official Liquidators be at liberty to meet all disbursements reasonably incurred in connection with the performance of their duties;
 - (iv) Provided however that all payments made pursuant to paragraph g(i)-(iii) above shall be subject to Court Approval on a quarterly basis and if any payment is not approved by the Court the Joint Official Liquidators will repay the amount not approved within 7 days of the Court's determination.
- (h) The Joint Official Liquidators shall provide to the Governor in Council (by way of the Cayman Islands Monetary Authority) copies of all reports filed with this Court and/or sent to creditors or contributories of the Company.
- (i) The Joint Official Liquidators shall serve on the Governor in Council (by way of the Cayman Islands Monetary Authority) copies of all applications made to this Court for directions or other relief and any evidence in support thereof, such service to be within a reasonable time of date of the hearing of any such applications.
- (j) Such other orders and directions may be made as the Court thinks fit.

AND YOUR PETITIONER will ever pray etc.

DATED this 17 day of December 2002.



Stephen D. Hall-Jones
Senior Crown Counsel (Civil)
for the Petitioner

INDORSEMENT

This Petition having been presented to the Grand Court of the Cayman Islands on the day of 17th Dec 2002 will be heard by the Grand Court of the Cayman Islands:

DATE: 21.2.03

TIME: 10.00 a.m

(or as soon thereafter as the amended petition can be heard).

This petition is filed by the Attorney General and on behalf of the Governor-in-council whose address for service is Government Legal Department, 4th Floor, Tower Building, George Town, Grand Cayman