

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 619 OF 2003

IN THE MATTER OF THE COMPANIES LAW (2003 REVISION)

AND IN THE MATTER OF LIPPER OFFSHORE CONVERTIBLES CORP. (IN VOLUNTARY LIQUIDATION)

PETITION

TO THE GRAND COURT

The humble petition of Lipper Offshore Convertibles Corp. ("the Company"), shows that:-

1. The object of this Petition is to seek the sanction of the Court to a Scheme of Arrangement under section 86 of the Companies Law (2003 Revision) between the Company and the holders of its ordinary shares ("the Ordinary Shareholders"). The proposed Scheme of Arrangement ("the Scheme") is to be annexed as Schedule 1 to this Petition.
2. The Company was incorporated on December 11, 2000 as a Cayman Islands exempted company limited by shares.
3. The registered office of the Company is at the offices of Citco Fund Services (Cayman Islands) Limited, Corporate Centre, West Bay Road, PO Box 31106 SMB, Grand Cayman, Cayman Islands.
4. The authorised nominal capital of the Company is US\$50,000 divided into 100 Preferred Shares of a nominal or par value of US\$1.00 each and 4,990,000 ordinary shares of a nominal or par value of US\$0.01 each ("the Ordinary Shares"). In the Memorandum and Articles of Association of the Company the Ordinary Shares are designated as Class A, Class B, Class AC or Class BC Ordinary Shares. There is a separate Series of Ordinary Shares for each person holding Ordinary Shares.

5. The principal objects for which the Company was established are as follows: unrestricted subject to the provisos and exceptions stated in the memorandum of association of the Company.
6. The Company was established to act as a feeder fund into the fund ("the Fund") maintained by Lipper Offshore Convertibles LP ("the LP"), a Cayman Islands' exempted limited partnership, in which the Company was and is a limited partner. The general partner in the LP is Jerome Services Corp LDC ("Jerome"), a Cayman Islands limited duration company. An affiliated company, Lipper & Company LP ("Lipper") was the investment manager of the Fund.
7. The LP was formed on July 19 1993. The Company commenced activity on January 1 2001 when a significant number of investors who were formerly limited partners in the LP transferred their investments therein such that they became the holders of Ordinary Shares in the Company. Subsequently, further investors subscribed for Ordinary Shares in the Company and since the date of its incorporation the Company has been the vehicle through which all new investment in the Fund has taken place.
8. The Company's assets consist of its limited partnership interest in the LP and the Fund. There are 5 limited partners in the LP (if one who had served notice of withdrawal prior to the dissolution of the LP but who has yet to be paid the balance outstanding on its capital account is included as a limited partner) in addition to the Company. The Company has by far largest limited partnership interest in the Fund. Its interest amounts to approximately 96 % of the value of the Fund.
9. There are 44 Ordinary Shareholders in the Company. Each Ordinary Shareholder holds Ordinary Shares in a separate Series of Ordinary Shares in the Company but the proceeds of the issuance of each Series of Ordinary Shares were invested directly in the mutual fund ("the Fund") maintained by the LP. The only asset of the Company is its interest as a limited partner in the LP. Each of the Ordinary Shareholders is entitled to the same rights in relation to the assets of the Company. Each is entitled to share in the assets in proportion to the net asset value per Series of Ordinary Shares held. Whilst the Memorandum and Articles of Association of the Company provide for different Classes of Ordinary Shares this is of no economic significance. Article 22 of the Articles of Association provides as follows:

"Class A Ordinary Shares, Class AC Ordinary Shares, Class B Ordinary Shares and Class BC Ordinary Shares shall carry identical rights and restrictions, except that the net proceeds of the issuance of any Series of Class A Ordinary Shares shall be invested directly in Class A Interests in the Fund for such Series, the net proceeds of the issuance of any Series of Class AC Ordinary Shares shall be invested in the

corresponding series of equity interests in the Class C Company, or other appropriate Investment Vehicle (excluding the Company), which in turn shall invest in Class A Interests in the Fund for such Series, the net proceeds of the issuance of any Series of Class B Ordinary Shares shall be invested directly in Class B Interests in the Fund for such Series, the proceeds of any Series of Class BC Ordinary Shares shall be invested in the corresponding series of equity interests in the Class C Company, or other appropriate Investment Vehicle (excluding the Company), which in turn shall invest in Class B Interests in the Fund for such Series.”

10. The Fund did not actually operate Class A and Class B Interests but maintained a single portfolio of assets in which no such differentiation was made. Whilst a company was incorporated to be the so-called “Class C Company”, if required, it remained a shell through which no investment in the Fund was ever made. The proceeds of the issuance of all Ordinary Shares in the Company were invested directly in the Fund.
11. Accordingly, the relevant class of shareholders of the Company affected by the proposed Scheme are its Ordinary Shareholders and all the Ordinary Shareholders should comprise a single class for the purposes of the proposed Scheme.
12. Articles 25 and 32 of the Company’s Articles of Association (“the Articles”) provide that a separate Series of Ordinary Shares for each Ordinary Shareholder subscribing for Ordinary Shares will be issued to each such shareholder. Article 27 of the Articles provides that a new Ordinary Shareholder may initially subscribe for Ordinary Shares of a newly established Series of Ordinary Shares at a subscription price of US\$ 1,000 per Ordinary Share. Article 28 provides that an existing Ordinary Shareholder may subscribe for additional Ordinary Shares of the same Series of Ordinary Shares held by such Ordinary Shareholder at a subscription price equal to the Net Asset Value per Ordinary Share of the applicable Series of Ordinary Shares. Article 32 provides that there shall be established for each Series of Ordinary Shares a separate account in the books of the Company and that the proceeds from the allotment and issue of a Series of Ordinary Shares shall be applied to such separate account. Articles 32 and 33 provide that the net proceeds of the issuance of each Series of Ordinary Shares will be invested directly in the Fund and that the Company shall ensure that a separate capital account is maintained in the Fund in respect of each investment in the Fund made by the Company from the issuance of each Series of Ordinary Shares by the Company. Insofar as the Articles provide for voting rights in limited circumstances by the holders of Ordinary Shares the value of the votes of such Ordinary Shareholders is pursuant to Article 46 determined by the Net Asset Value of their Ordinary Shares.

13. In January 2002 it became apparent that the net asset value of the Fund had been overvalued since approximately 1995. This led to the dissolution of the LP on 26 March 2002.
14. By a special resolution of the Company passed on February 3, 2003 the Company went into voluntary liquidation and Ian Wight and Stuart Sybersma, partners of Deloitte and Touche, were appointed as the Joint Liquidators (“the Liquidators”) of the Company.
15. On March 21, 2003, the Liquidators sent a letter to the Ordinary Shareholders explaining the background to their appointment, their duties as Liquidators and their intended approach to the liquidation.
16. The Liquidators identified that the Company had suffered losses due to the overstatement of the Net Asset Value of the LP. In addition, the Liquidators identified that the LP had itself suffered losses for the same reason.
17. The Liquidators determined that the overstatement resulted in two types of loss. The first type of loss is overpaid investment management and performance fees and amounts to approximately \$3.3 million. The second type of loss relates to overpayments to investors who redeemed during the period of the overstatement and amounts to approximately \$3.8 million.
18. The Liquidators concluded that *prima facie*, the LP has a good claim against Jerome and Lipper for the return of overpaid fees. The Liquidators also concluded that the LP has an arguable claim against Jerome and Lipper with regard to the losses related to overpaid redemptions.
19. Jerome and Lipper have acknowledged that claims could be alleged against them for the losses arising from the overvaluation caused by the inflated prices. However, Jerome and Lipper have taken the position that they have defences to allegations that they are responsible for these losses.
20. On May 26, 2003, Jerome wrote a letter to the Liquidators in which it outlined a proposal (“the Jerome Proposal”) for settlement purposes only, without admission of liability or waiver of any rights claims or defences.
21. Pursuant to the Jerome Proposal, Jerome offered to pay the LP the sum of US \$3.3 million through a reduction in Jerome’s capital account in the LP, such payment to be allocated amongst the Ordinary Shareholders and the limited partners in the Fund in a manner to be determined by the Liquidators.
22. The offer was conditional upon the LP and the Lipper Entities and Persons (as defined in the Jerome Proposal) receiving a release from the Ordinary Shareholders and the Company and from 75% by value of the limited partners

- (excluding the Company) in the LP from any and all claims by investors in the Fund. In the case of the Company and the Ordinary Shareholders, this release has to be obtained via the Scheme. In the case of the limited partners in the LP Jerome has agreed to use its reasonable endeavours to obtain releases from the Limited Partners in the same form as the release contained in paragraph 1 of the Scheme and on the same terms mutates mutandis, thereby inviting such limited partners to become parties to the Scheme.
23. There is a further provision in the Jerome Proposal that Jerome will remit to the limited partners (and in turn to the Ordinary Shareholders to the extent of the Company's interest in the LP) any amounts it may recover (less the cost of recovering such amounts) from PricewaterhouseCoopers LLP, CITCO Funds Services (or their affiliates or predecessors), or from any investor in the Fund who received money upon complete withdrawal from the Fund in excess of the amount which such investor should have received as calculated by the Liquidators subject to a cap of \$3.8 million.
 24. On July 7, 2003, the Liquidators sent a report ("the Report") to the Ordinary Shareholders (and the limited partners in the LP) setting out their findings and explaining the terms and requirements of the Jerome Proposal. The Liquidators sent a ballot paper to each Ordinary Shareholder seeking views on inter alia the Jerome Proposal and an overwhelming majority of Ordinary Shareholders returned their ballot papers indicating their support for the Jerome Proposal.
 25. The Liquidators attached a personalized statement for each Ordinary Shareholder to the Report and sent these personalized statements along with the Report to the Ordinary Shareholders.
 26. The personalized statement showed each Ordinary Shareholder the amount that the Liquidators have calculated should be allocated to such Shareholder in the event that the Scheme is sanctioned.
 27. The Liquidators determined that a methodology, referred to in the Report as the BDO Modified Methodology, should be used to determine the allocation of the US \$3.3 million and any balance of the assets of the Fund not distributed in accordance with the BDO Methodology prior to the realisation of further assets including the said sum of US \$3.3 million. The BDO Modified Methodology recalculates performance and investment management fees based on the actual performance of the LP's investment portfolio as explained in section 5.6 of the Report.
 28. The purpose of the Scheme now proposed on behalf of the Company is to give effect to the Jerome Proposal upon the terms set out in the Scheme. Under the terms of the Scheme the Liquidators are to be constituted as Scheme Administrators.

29. Jerome and Lipper have agreed to be bound by the Scheme and the limited partners in the LP are to be invited to agree to be bound by it.
30. The Company seeks the approval of the Court to convene a meeting of the holders of the Ordinary Shares for the purpose of considering and if thought fit approving (with or without modifications) the Scheme. By reason of the matters referred to in paragraph 12 above the value of the votes cast at such a meeting by each Ordinary Shareholder are to be determined by reference not to the number of Ordinary Shares voted but rather to the net asset value of such Ordinary Shares.
31. In the event that the Scheme (with or without modifications) should be approved at a meeting of the Ordinary Shareholders convened by order of the Court and at least 75% by value of the limited partners in the LP (apart from the Company) should chose to become parties to the Scheme, the Company seeks the sanction by the Court of the Scheme in the form approved.

YOUR PETITIONER THEREFORE HUMBLY PRAYS THAT:-

1. the Scheme may be sanctioned by the Court so as to be binding on the Company and the Ordinary Shareholders pursuant to section 86 of the Companies Law (2003 Revision);
2. all directions necessary and proper may be given;
3. such other Order may be made as the Court shall think fit

AND your Petitioner will ever pray etc.

Dated the day of



HUNTER & HUNTER

NOTE: It is not intended to serve this Petition on any person

Indorsement

This petition having been presented to the Court on theday of.....2003 will be heard at the Grand Court of the Cayman Islands, the Court House, Georgetown, Grand Cayman on:

Date.....

Time.....hours

(or as soon thereafter as the petition may be heard)

THIS PETITION was presented by Hunter & Hunter, the Attorneys-at-Law for the Petitioner, whose address for service is that of its said attorneys at The Huntlaw Building, 75 Fort Street, P.O. Box 190 GT, Grand Cayman, Cayman Islands (Ref./CY/09375.001).