

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 116 OF 2006

IN THE MATTER OF THE COMPANIES LAW (2004 REVISION)

AND IN THE MATTER OF STINGRAY CONSTRUCTION COMPANY LIMITED

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PETITION

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

The Humble Petition of **DRG – RESORTWATERSCAPES, JV** ("the Petitioner") of PO Box 330816, Miami, Florida, 32333, United States of America and PO Box 10127 APO, George Town, Grand Cayman, Cayman Islands,

**SHOWETH** as follows:-

1. **STINGRAY CONSTRUCTION COMPANY LIMITED** (the "**Company**") was incorporated on 24 November 2003 under the Companies Law (the "**Companies Law**") as a resident Company.
2. The Registered Office of the Company is situated at Clifton House, 75 Fort Street, George Town, Grand Cayman, Cayman Islands.
3. The Company is indebted to the Petitioner in the amount of US\$200,864 as set forth in a Statutory Demand served on the Company on 6 February 2006 (the "**Statutory Demand**").

4. In or about August 2003, the Petitioner entered into a contract with Fluor Daniel Caribbean Inc. (the "**Contract**") in connection with the construction of the pools, spa and water features at the Ritz Carlton project in Grand Cayman. The Company is engaged in the management of the overall construction of the Ritz Carlton project. The Company has functioned as the general contractor in that respect since the departure of Fluor Daniel Caribbean Inc.
5. The original contracting party in respect of the project was DRG – Resort Waterscapes, JV. That was a joint venture between DRG Construction Company Ltd, a Cayman resident company and Resort Waterscapes Ltd, a foreign registered company in the Cayman Islands. The joint venture came to an end in or about August 2004. Work has been completed on the project by XMC Caribbean Limited, a resident company incorporated in the Cayman Islands on behalf of the joint venture or alternatively on behalf of Resort Waterscapes Ltd, one of the joint venture partners. However, the contracting party remains DRG – Resort Waterscapes, JV and this has never been changed; payment continuing to be made in respect of the project to DRG – Resort Waterscapes, JV and/or Resort Waterscapes Ltd and/or XMC Caribbean Limited interchangeably.
6. Pursuant to an agreement dated 6 December 2005 (the "**Agreement**"), the Company agreed to pay the Petitioner US\$800,684 in respect of certain work undertaken in connection with the project. The agreed payment of US\$800,864 related to work which had been completed and was approved by the Company in November 2005 and/or December 2005.
7. Pursuant to the Agreement, the payment of US\$800,864 was to be made in a number of installments. The express reason for the Petitioner agreeing to the payment in installments was due to the Company's financial difficulties at the time. The US\$200,864 which is due and owing is the outstanding amount due under the Agreement.
8. The assets and the liabilities of the Company are unknown at this time.
9. On 6 February 2006, the Petitioner served on the Company the Statutory Demand, in accordance with Section 95 (a) of the Companies Law, requiring the Company to pay US\$200,864 to the Petitioner within 21 days.

10. Over 21 days have passed since the Petitioner served the Statutory Demand on the Company but the Company has neglected to pay or satisfy the said sum or any part thereof or to make any offer to the Petitioner to secure or compound the same.
11. As a result, the Company is deemed to be unable to pay its debts pursuant to Section 95 (a) of the Companies Law.
12. Accordingly, in the context of the amount presently due and owing to the Petitioner and the events of the default committed by the Company, the Petitioner is of the belief that the Company is insolvent and is unable to pay its debts as and when they fall due, as is deemed to be the position pursuant to Section 95 (a) of the Companies Law.
13. In the circumstances, it is just and equitable that the Company should be wound up.
14. **THE PETITIONER THEREFORE HUMBLY PRAYS** as follows:-

- (1) That the Company be wound up by the Court subject to the provisions of the Companies Law (2004 Revision);
- (2) That G. James Cleaver and Richard E.L. Fogerty of Kroll (Cayman) Limited, Bermuda House, Cayman Financial Centre, Dr. Roy's Drive, George Town, Grand Cayman, Cayman Islands be appointed Joint Official Liquidators of the Company;
- (3) That the Joint Official Liquidators or either of them be authorized to do any acts or things considered by them to be necessary or desirable in their capacity as Joint Official Liquidators;
- (4) That the Joint Official Liquidators or either of them be authorized to exercise all the powers set out in Section 109 of the Companies Law (2004 Revision) without further sanction or intervention of this Honourable Court;
- (5) 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 realization of the assets thereof, and as to any other matters connected to the winding-up of the Company, every twelve calendar months or as the Court may from time to time direct;

- (6) That the Joint Official Liquidators or either of them be at liberty to employ Attorneys, Counsel and 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 and on such terms as they may think fit;
- (7) That the fees and expenses of any such Attorneys, Counsel and professional advisors employed by the Joint Official Liquidators be paid out of the Company's assets.
- (8) That the Joint Official Liquidators and their staff be remunerated out of the assets of the Company at their normal commercial rates and that such remuneration and any expenses of the Joint Official Liquidators be paid out of the Company's assets.
- (9) That the costs of the Petitioner and of and incidental to the Petition be paid out of the assets of the Company as an expense of the winding-up.
- (10) Such further and/or other relief as this Honourable Court deems appropriate.

**AND YOUR PETITIONER** will ever pray etc.

Dated this 24<sup>th</sup> day of March 2006



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**Stuarts Walker Hersant**  
**Attorneys-at-Law for the Petitioner**

**For and On Behalf of**  
**DRG – WATERSCAPES, JV**

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

**ENDORSEMENT**

This Petition, having been presented to the Grand Court of the Cayman Islands on the 23<sup>rd</sup> day of March 2006 will be Heard at the Grand Court of the Cayman Islands on:

DATE: 28<sup>th</sup> April 2006

TIME: 10.00 am

(or as soon thereafter as the Petition can be Heard)

THIS PETITION was filed by Stuarts Walker Hersant, the Attorneys-at-Law for the Petitioner, whose address for service is Fourth Floor, 1 Cayman Financial Centre, 36a Dr. Roy's Drive, PO Box 2510GT, Grand Cayman, Cayman Islands, BVI. Ref: RTWA/AA/1717