

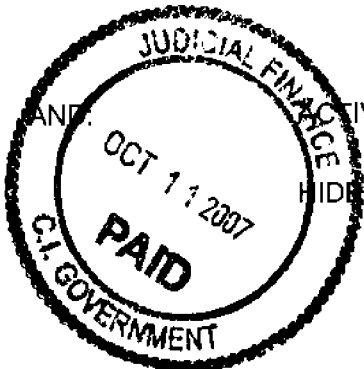
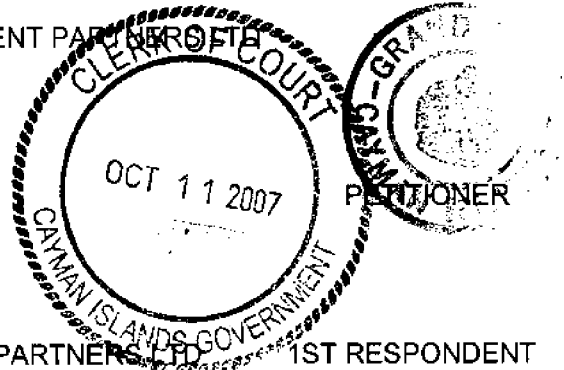
IN THE GRAND COURT OF THE CAYMAN ISLANDS

60484/07
CAUSE NO: OF 2007

IN THE MATTER OF THE COMPANIES LAW (2007 REVISION)

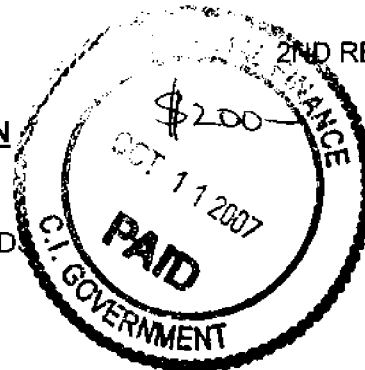
AND IN THE MATTER OF ACTIV INVESTMENT PARTNERS LTD

BETWEEN: KİYOSHI HIRASAWA



ACTIV INVESTMENT PARTNERS LTD 1ST RESPONDENT
HIDEO AOMATSU 2ND RESPONDENT

PETITION



TO THE GRAND COURT OF THE CAYMAN ISLANDS

THE HUMBLE PETITION of Kiyoshi Hirasawa of 5-28-3 Denenchofu, Otaku, Tokyo 145-0071, Japan, shows that:

ACTIV INVESTMENT PARTNERS LIMITED

1. ACTIV Investment Partners Limited ("the Company") was incorporated on 1 October 1999 as an exempted company under the Companies Law (1998 Revision), now the Companies Law (2007 Revision) (the Companies Law).
2. The registered office of the Company is situated at Maples and Calder, P.O Box 309, Uglund House, South Church Street, George Town, Grand Cayman, the Cayman Islands.
3. The objects for which the Company was established are unrestricted. The principal object for which the Company was established was to provide investment advisory

services to ACTIV GP Co, a Cayman Islands exempt company incorporated on 23 September 1999 as the general partner of ACTIV Investments Fund, L.P., a Cayman Islands exempted limited partnership, registered on 4 October 1999.

4. The share capital of the Company is Yen \$1,000,000 divided into 1,000,000 shares of a nominal or par value of Yen 1.00 each. The shares are all ordinary shares of the same class.
5. As at the date of this Petition, the Petitioner believes that the Petitioner and the Second Respondent, Mr Hideo Aomatsu ("Mr Aomatsu"), are each the sole directors, and equal 50% registered shareholders, of the Company.
6. The Petitioner believes that the Company is solvent and that there will be a monetary surplus available for distribution among the shareholders of the Company. However, the Petitioner has been unable to obtain access to financial information concerning the Company for some time as set out below.
7. The Petitioner relies on the facts and matters set out herein in support of his petition to wind up the Company on just and equitable grounds.
8. The Company was established as, and operated as, a quasi partnership between the Petitioner and Mr Aomatsu. Prior to the incorporation of the Company, the Petitioner and Mr Aomatsu had worked together as employees of an investment management company in Japan. They decided to incorporate the Company as a joint venture between them. The partnership was based on a relationship of mutual trust and confidence. The operation and management of the Company, and its principal subsidiary, was based on this relationship.
9. At all material times since incorporation of the Company, until October 2005, the Petitioner and Mr Aomatsu were paid equal shares of the distributable profits of the Company by way of dividend.
10. The major assets of the Company are:
 - a) an Investment Advisory Agreement between the Company and ACTIV GP Co as the General Partner of ACTIV Investments Fund L.P ("the First Fund"); and

- b) a 100% shareholding in ACTIV Investment Partners KK ("AIPKK"), a Japanese company, which is the counterparty to an Investment Advisory Agreement with JPE Ltd (a Cayman Islands exempt company) as general partner of Tokumei Kumiai (a Japanese investment vehicle) ("the Second Fund").

Success Fees due under the Investment Advisory Agreements referred to at paragraph 10(a) and (b) are to be paid directly to the Company in relation to the First Fund and to AIPKK through JPE in relation to the Second Fund. The Petitioner believes that the Success Fee payable in relation to the Second Fund is in the region of US\$6 million or more.

11. The First Fund made three investments: (i) Nissen (a catalogue sales company) (ii) Sotec (a PC company) and (iii) HanaeMori (an apparel brand). The First Fund disposed of the first and third investments well before the matters complained of in this Petition. Until 20 August 2007, the Sotec investment remained outstanding. The Success Fees paid to the Company in relation to the first and third investments were distributed equally to the Petitioner and Mr Aomatsu by way of dividends paid in 2003 in the amount of 100 million Japanese yen to each of the Petitioner and Mr Aomatsu.
12. The Second Fund was formed in or around December 2003 by mutual agreement between the Petitioner and Mr Aomatsu. They agreed to establish two wholly owned subsidiaries of the Company to act as general partner and investment manager to the Second Fund (JPE and AIPKK as referred to at paragraph 9 above). JPE became the general partner of the Second Fund and AIPKK became the investment advisor to JPE. There were three directors of AIPKK: the Petitioner, Mr Aomatsu and Mr Norihide Kawashima.
13. In or around March 2004, the Second Fund acquired a company called Tokyu Tourists, which has now changed its name to "Top Tours". To the best of the Petitioner's knowledge and belief, this was the Second Fund's only acquisition.
14. In or around April 2004, the Petitioner assumed the position of CEO of Sotec, following the replacement of the entire management team due to poor performance. The intention behind the Petitioner's assumption of this position was to ensure that efforts were made to resolve any management issues which might impact on the value of Sotec, and consequently to protect the value of the sole remaining asset of the First Fund. He

assumed these responsibilities on behalf of the Company and AIPKK. He remained in the position until the end of June 2005. After July 2005, he returned to his office at AIPKK and resumed his responsibilities at AIPKK.

15. The partnership between the Petitioner and Mr Aomatsu has irretrievably broken down. The Petitioner also has grave concerns as to the management of the Company by Mr Aomatsu and the stability of the assets of the Company . Particulars of these concerns are set out in more detail below.
16. In or around September 2005, Mr. Aomatsu demanded that the Petitioner resign as a director of the Company and transfer his shares in the Company to Mr. Aomatsu. The Petitioner refused to resign and refused to transfer his shares.
17. In or around October and November 2005, Mr. Aomatsu unilaterally terminated all payments to the Petitioner from the Company, including dividend payments and/or payments which were characterised as salary. Since that date, the Petitioner has received no payments from the Company by way of dividend or otherwise.
18. In or around November 2005, Mr. Aomatsu changed the keys to the offices of AIPKK in Japan, from which premises the business and activities of the Company are conducted. Accordingly, it has not been possible since that date for the Petitioner to gain access to those premises.
19. In addition, in or around November 2005, Mr Aomatsu terminated the Petitioner's telephone and email access for both the Company and AIPKK. Accordingly it has become impossible for the Petitioner to conduct any business on behalf of the Company or AIPKK, the Company's principal subsidiary.
20. In or around December 2005, Mr. Aomatsu incorporated a new company in Japan called DRC One, which has the same objects as AIPKK and operates from the same physical address as AIPKK. DRC One has made investments of more than JPY900 million since incorporation. Mr Aomatsu is the sole shareholder of DRC One. Given that this company has the same objects as AIPKK, it is in direct competition with the business of the Company's subsidiary.

21. Since January 2006 the Petitioner has requested information regarding the Company from Mr. Aomatsu. However Mr Aomatsu has refused to provide any information at all to the Petitioner, including information and documents confirming the financial status of the Company. This has made it impossible for the Petitioner to arrive at a true and fair valuation of his interest in the Company and has impeded all efforts to agree on fair terms for the Petitioner's exit from the Company.
22. Mr. Aomatsu has also refused to provide to the Petitioner financial statements for the years ended 2005 and 2006 in relation to AIPKK, the Company 's major asset.
23. On or around 20 August 2007, the First Fund disposed of its interest in Sotec by way of sale to Onkyo Corporation ("Onkyo") (a Japanese company). According to the terms of the sale agreement of July 2, 2007, the First Fund was obliged to re-invest the proceeds of the sale in stock of Onkyo. It is believed that this transaction resulted in losses for the First Fund on the Sotec investment, but specific details are not available to the Petitioner.
24. On 27 September 2007, Top Tours announced that the Second Fund was disposing of its interest in Top Tours. This announcement appeared in the morning edition of the Nikkei Newspaper on 28 September 2007. A sale agreement was entered into on that date between the Second Fund and Polaris Principal Finance, KK, a Japanese private equity firm. Although precise figures have not yet been publicised, it appears that the Second Fund will realise capital gains of 3 to 4 billion Japanese yen from this sale, which would result in a Success Fee of approximately 600 million to 800 million yen payable to AIPKK (through JPE).
25. The Petitioner believes that this will result in a dividend payable to the Company, which will in turn create value in the Company. The Petitioner is concerned that, in the light of Mr Aomatsu's activities as set out herein, this value will not be disposed of fairly and information about any amounts earned by AIPKK and/or the Company will not be made available to him.

Application that the Company be wound up

26. The events described above demonstrate the breakdown of the relationship between the Petitioner and Mr Aomatsu. This in turn has led to a breakdown of the quasi partnership

between the Petitioner and Mr Aomatsu, pursuant to which the Company was established. Mr Aomatsu has breached the terms of the quasi partnership agreement by excluding the Petitioner from the management of the Company, refusing to provide information to the Petitioner relating to the Company, including financial information, establishing a new company with competing objectives to the Company, and taking action which could result in the reduction of the value of the Petitioner's shares in the Company.

27. In addition, by virtue of the actions of Mr Aomatsu, the Petitioner has grave concerns as to the absence of information regarding the Company, the financial status of the Company and the continued management of the Company and its assets.
28. Mr Aomatsu has acted in an oppressive and prejudicial manner towards the Petitioner and the Petitioner has justifiably lost confidence in him.
29. In light of the foregoing, it is just and equitable that the Company be wound up.
30. The Petitioner hereby petitions *qua* contributory pursuant to section 94 (d) of the Law.

YOUR PETITIONER THEREFORE HUMBLY PRAYS THAT:

- (1) The Company be wound up by the Court under the provisions of the Companies Law (2004 Revision).
- (2) An order that the Second Respondent pay the costs of and occasioned by this Petition.
- (3) Such other Order may be made as the Court thinks fit.

DATED the 11th day of October 2007



WALKERS

Attorneys-at-Law for the Petitioner

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

INDORSEMENT

This Petition having been presented to the Court on _____ will be heard at the Grand Court of the Cayman Islands on:

Date:

Time: _____ am

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

This Petition is presented by Walkers, Attorneys-at-Law, Walker House, Mary Street, P.O. Box 265 GT, George Town, Grand Cayman, for the Petitioner whose address for service is care of his said Attorneys-at-Law.