

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. *0594* / OF 2008

IN THE MATTER OF THE COMPANIES LAW (2007 REVISION)

AND

IN THE MATTER OF SIGMA FINANCE CORPORATION

PETITION

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

The Petition of **SIGMA FINANCE CORPORATION (In Receivership)** ("the Company"), acting through its Joint Administrative Receivers Stephen John Harris, Alan Robert Bloom and Margaret Elizabeth Mills of Ernst & Young LLP, 1 More London Place, London, SE1 2AF, ("the Joint Administrative Receivers").

SHOWETH as follows:

1. The Company was incorporated under the Companies Law of the Cayman Islands on the 5 April 1994 as an exempted company limited by shares.
2. The registered office of the Company is situated at PO Box 309 GT, Uglund House, South Church Street, George Town, Grand Cayman, Cayman Islands.
3. Pursuant to an amended and restated Security Trust Deed dated 27 March 2003 between Deutsche Trustee Company Limited ("the Security Trustee") and the Company ("the Security Trust Deed"), the Company granted security by way of fixed assignment

and floating charge over all the Company's right, title, interest and benefit, both present and future, in and to:

- (a) all Debt Securities (as defined in the Security Trust Deed) held from time to time by the Company or Gordian Knot Limited, as Investment Manager on behalf of the Company;
- (b) all sums of money standing to the credit of any account opened by or on behalf of the Company or maintained in its name, together with all interest accruing from time to time thereon and the debts represented thereby;
- (c) any property held as margin by an Approved Exchange (as defined in the Investment Management Contract dated 30 January 1995, as amended or restated from time to time, between the Company and the Investment Manager) for or on behalf of the Company;
- (d) all rights, benefits and proceeds deriving from, attaching to, or arising from or in respect of any of the matters referred to in (a) or (c) above; and
- (e) all other rights, benefits, property, assets and undertakings of the Company, whatsoever and wheresoever situate
(jointly "the Assets").

- 4. The security was granted by the Company in favour of the Security Trustee to secure the payment and discharge of the Secured Obligations (as defined in the Security Trust Deed). In summary, the Secured Obligations are obligations undertaken by the Company to various categories of counterparty. The majority of the Secured Obligations by value are sums which have or will in the future fall due to the holders of notes issued by or guaranteed by the Company.

- 5. The Joint Administrative Receivers understand from documentation provided by the Security Trustee that the Company's board of directors resolved on 30 September 2008 that the Company's position as a going concern was no longer applicable, that it may be or may become insolvent, and that "the required steps under the relevant transaction documents entered into by [the Company] should therefore be taken to provide for an orderly winding down of [the Company's] affairs". By that resolution the board of

directors also resolved that certain liabilities of the Company falling due that day should not be paid.

6. On 1 October 2008, the Company wrote to the Security Trustee stating that it had been resolved that there was "no reasonable likelihood of Sigma avoiding an insolvent liquidation".

7. On 2 October 2008, one of the Company's liquidity providers (one of the beneficiaries of the security described in paragraph 3 above) served a notice of an event of default under its liquidity facility agreement with the Company upon the Security Trustee. That notice directed the Security Trustee to enforce the security described in paragraph 3 above, with the consequence that an Enforcement Event as that term is used in the Security Trust Deed took place on 2 October 2008 (the "Enforcement Date" as defined in the Security Trust Deed).

8. By virtue of clause 7.1 of the Security Trust Deed, the Security Trustee is entitled to enforce the security described in paragraph 3 above on and from the Enforcement Date. By virtue of clause 14.1 of the Security Trust Deed, the Security Trustee is empowered to appoint a receiver at any time on or after the Enforcement Date.

9. As a result of the Company's default and the resulting occurrence of an Enforcement Event, the Joint Administrative Receivers were appointed by the Security Trustee on 6 October 2008 over the Assets of the Company.

10. Clause 14.3 of the Security Trust Deed (which concerns the powers of any appointed receiver) provides that every such receiver "shall be the agent of [the Company] for all purposes".

11. Further, the specific powers set out in clause 14.3 of the Security Trust Deed which are conferred upon any appointed receiver include, amongst other things, "all powers, authorities and discretions ... conferred by the Insolvency Act 1986 ... on receivers appointed under [that Act] as if such receiver had been duly appointed under [that Act]". The powers therefore include, by implication, the statutory powers of an administrative receiver as set out in Schedule 1 of the English Insolvency Act 1986. Accordingly, by virtue of clause 14.3 of the Security Trust Deed and Schedule 1 of the English Insolvency Act 1986 the Joint Administrative Receivers have:

"The power to present or defend a Petition for the winding up of the Company".

12. Pursuant to their position as agents of the Company and pursuant to these powers, the Joint Administrative Receivers have caused the Company to present this Petition.
13. Based on the Joint Administrative Receivers' investigations to date, as at 29 November 2008 Secured Obligations with a value of approximately US\$1.6 billion had fallen due but remained unpaid by the Company. Those sums remain unpaid. Secured Obligations in substantial sums continue to fall due from time to time. The Joint Administrative Receivers believe that further Secured Obligations in excess of US\$4.6 billion will fall due, the majority of those sums falling due within the next 12 months.
14. Further, based on information provided by the directors of the Company, the Joint Administrative Receivers believe the Company to have unsecured creditors whose claims have fallen due, or will in the future fall due, totalling in excess of US\$4.7 billion.
15. In contrast, based on the Joint Administrative Receivers' investigations to date and the steps which they have already taken to realise identified assets of the Company, the Joint Administrative Receivers believe the Company to have secured assets with a value totalling approximately US\$440 million and no other assets.
16. To conclude, the Company is unable to pay its debts as they fall due.
17. In the circumstances, it is just and equitable that the Company should be wound up.

THE PETITIONER THEREFORE HUMBLY PRAYS as follows: -

- (1) That the Company be wound up by the Court subject to the provisions of Part V of the Companies Law (2007 Revision);
- (2) That the Joint Official Liquidators be appointed and authorised to exercise all the powers set out in Section 109 of the Companies Law (2007 Revision) without further sanction or intervention of this Honourable Court;

- (3) 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 twelve calendar months or as the Court may from time to time direct;
- (4) That the Joint Official Liquidators 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;
- (5) That the Joint Official Liquidators and their staff be remunerated out of the assets of the Company in accordance with Practice Direction No 2 of 2003, such remuneration to be approved by this Honourable Court;
- (6) Such further and/or other relief as this Honourable Court deems appropriate.

AND YOUR PETITIONER will ever pray etc.

DATED this ^{19th} day of December 2008.


FOR AND ON BEHALF OF
SIGMA FINANCE CORPORATION

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

INDORSEMENT

This Petition, having been presented to the Grand Court of the Cayman Islands on the 19th day of December 2008 will be heard at the Grand Court of the Cayman Islands on:

DATE:

TIME:

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

THIS PETITION is filed by Walkers, Attorneys-at-Law for the Petitioner herein, whose address for service is that of its said Attorneys-at-Law, Walker House, P.O. Box 265, George Town, Grand Cayman, KY1-9001, Cayman Islands.