

IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
BRITISH VIRGIN ISLANDS
Claim NO. BVIHCV 2009/ 285
IN THE MATTER OF THE INSOLVENCY ACT 2003
IN THE MATTER of THE INSOLVENCY RULES 2005
AND IN THE MATTER of MOUNT CAPITAL FUND LIMITED



MOUNT CAPITAL FUND LIMITED

Applicant

ORDER

BEFORE: The Honourable Mr Justice Bannister QC

DATED: 22 September 2009

ENTERED: 24 September 2009

UPON HEARING COUNSEL FOR THE APPLICANT

AND UPON THE ORIGINATING APPLICATION by Mount Capital Fund Limited, pursuant to Section 162 of the Insolvency Act 2003, for an order that Joint Liquidators be appointed over Mount Capital Fund Limited

AND UPON READING the affidavit of Huw Salter sworn on behalf of the Applicant on 18 August 2009 and the documents recorded on the Court file as having been read

IT IS HEREBY ORDERED that:

- 1 Mount Capital Fund Limited ("the Company") be wound up in accordance with the provisions of the Insolvency Act 2003.
- 2 John Greenwood and Hadley Chilton are hereby appointed as Joint Liquidators of the Company.
- 3 The Joint Liquidators shall have custody and control of all assets of the Company wherever situated and shall have all the powers under the Insolvency Act 2003 and in particular the powers in Schedule 2 thereof including the power to do the following, with the reservation that the powers contained in sub-paragraphs (a) to (e) below are to be exercised only with the sanction of the Court:
 - (a) Power to pay any class of creditors in full.
 - (b) Power to make a compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging that they have any claim against the Company, whether present or future, certain or contingent, ascertained or not.
 - (c) Power to compromise, on such terms as may be agreed:
 - (i) calls and liabilities to calls, debts and liabilities capable of resulting in debts, and claims, whether present or future, certain or contingent, ascertained or not, subsisting or supposed to subsist between the Company and any person; and
 - (ii) questions in any way relating to or affecting the assets or the liquidation of the Company; and take security for the discharge of any such call, debt, liability or claim and give a complete discharge in respect of it.
 - (d) Power to commence, continue, discontinue or defend any action or other legal proceedings in the name and on behalf of the Company.
 - (e) Power to carry on the business of the Company so far as may be necessary for its beneficial liquidation.

- (f) Power to sell or otherwise dispose of property of the Company.
- (g) Power to do all acts and execute, in the name and on behalf of the Company, any deeds, receipts or other documents, including, without prejudice to the generality of the foregoing, the power to exercise all rights of the Company in its capacity as shareholder of any companies in which it holds shares or other interests.
- (h) Power to use the Company's seal.
- (i) Power to prove, rank and claim in the bankruptcy, liquidation, insolvency or sequestration of any member or past member for the balance against his estate, and to receive dividends, in the bankruptcy, liquidation, insolvency, sequestration or in respect of that balance, as a separate debt due from the bankrupt or insolvent, and rateably with the other separate creditors.
- (j) Power to draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the Company with the same effect with respect to the Company's liability as if the bill or note had been drawn, accepted, made or endorsed by or on behalf of the Company in the course of its business.
- (k) Power to borrow money, whether on the security of the assets of the Company or otherwise.
- (l) Power to take out in their official name letters of administration to any deceased member or past member or debtor, and to do any other act necessary for obtaining payment of any money due from a member or past member or debtor, or his estate, that cannot conveniently be done in the name of the Company.


For the purpose of enabling the liquidators to take out letters of administration or do any other act under this paragraph, to be due to the liquidators themselves.

- (m) Power to call meetings of creditors or members for:
 - (i) the purpose of informing creditors or members concerning the progress of or matters arising in the liquidation;
 - (ii) the purpose of ascertaining the views of creditors or members on any matter arising in the liquidation; or
 - (iii) such other purpose connected with the liquidation as the liquidators consider fit.

- (n) Power to appoint a solicitor, accountant or other professionally qualified person to assist them in the performance of their duties.
- (o) Power to appoint an agent to do any business that the liquidators are unable to do themselves, or which can be more conveniently done by an agent.
- (p) Power to do all things necessary for or incidental to the exercise of the above powers and/or functions.

4 The costs of and occasioned by this Application to be paid out of the assets of the Company as an expense of the Liquidation.

BY ORDER OF THE COURT



Deputy REGISTRAR

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