

14.7.2000



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1 IN CHAMBERS

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3 IN THE **GRAND COURT** OF THE CAYMAN ISLANDS

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6 IN THE MATTER OF: THE **COMPANIES LAW (2000 REVISION)**

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9 AND IN THE MATTER OF: COMBINED ASSET MANAGEMENT LTD.
10 INTERNATIONAL PROFESSIONALS LTD.
11 MORNING STAR LTD.
12 JMP INTERNATIONAL LTD.
13 INTER-WORLD HOLDINGS
14 OPAL HOLDINGS
15 JIBO LTD.
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19 CAUSES: 100/00 – In the Matter of International Professional Ltd.
20 101/00 – In the Matter of MTN Investments
21 108/00 – In the Matter of JMP International Ltd.
22 109/00 – In the Matter of INTER-WORLD Holdings
23 110/00 – In the Matter ITL Corp.
24 111/00 – In the Matter of Morning Star Ltd
25 112/00 – In the Matter of Combined Asset Management Ltd.
26 113/00 – In the Matter Opal Holdings
27 115/00 – In the Matter of Jibo Ltd.
28 116/00 – In the Matter of Sovereign Capital Holdings
29 117/00 – In the Matter of Unique Projects
30 119/00 – In the Matter of Sovereign Capital Holdings
31 123/00 – In the Matter of Offshore Title Investments
32 165/00 – In the Matter of White Sands International
33 166/00 – In the Matter of KDS Holding
34 167/00 – In the Matter of S& R Financial
35 369/00 – In the Matter of OTA Corp
36 370/00 – In the Matter of High Hope Ministries.
37 385/00 – In the Matter of LDF Ltd
38 386/00 – In the Matter of The Whisper Group
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1 Appearances:

2 Mr. Andrew Bolton of Hunter & Hunter for the joint official liquidators (with him Mr.
3 McCrae of Ernst & Young and Miss Caroline McCann).
4 Mr. Brian J.

4 Mr. Pierre Lamontagne Q.C. for

1. Alfred W. Billes
2. Willie Coyote of Yen Holdings Ltd (plaintiff in Cause 663/99)(with him Miss Billes and Mrs. Joseph).

No other creditors represented in the proceedings.

RULING

This is the Liquidator's application by which they seek the Court's approval of the payment of their fees and expenses in the liquidation. They seek payment from the assets held by them in the liquidation of the seven Companies first named above.

While no doubts have been expressed about the fairness, scrupulousness or accuracy of the liquidators' present claim for fees and expenses, for some time now this court has been concerned generally to ensure that liquidators' fees and expenses are justified and recovered by order of the Court only in circumstances where those who have an interest in the estate have an opportunity to be satisfied about the claim. See, for example In Re Johnson 1996 CILR N.3.

In this case those persons are the creditors.

In this case the principle just mentioned was recognised from the outset in that aspect of the Order of 14th March 2000 which required that a meeting of the creditors be convened with a view to the creation of a creditors' committee to have oversight of the liquidation being conducted in the interest of the creditors generally.

1 Mr. Lamontagne submits that the liquidators claim presented to the court for approval
2 should be adjourned to allow for that committee to be created and afforded an
3 opportunity to scrutinise the claim before it might be approved.
4 Given the size of the claim at just shy of a million dollars, and the total of liquidation
5 expenses of \$1.6 million to which the present claim would bring the liquidation expenses;
6 I do not see how I could refuse that application.
7 The reasonableness of the application is all the more apparent in this case where the
8 assets realised so far amount to only some \$16 million; although I am told there are
9 potential recoveries of some \$67 million which have been identified to be pursued.
10 Much depends on whether pursuing them or some of them would involve too much risk
11 of throwing good money after bad.
12 On the other hand, I must accept that the present liquidators (who replaced PWC after the
13 later had incurred some \$6 million in costs and fees) have been, in effect, funding the
14 liquidation pending the approval of their claim by the Court. They cannot be expected to
15 continue to do so.
16 The circumstances call for a reasonable balance to be struck to protect the interests of the
17 creditors in being able to scrutinise and if appropriate challenge the claim – a large one
18 by any measure - and that of the liquidators to be remunerated for their work and
19 expenses.
20 I accept Mr. Lamontagne's proposal that all outgoings of the liquidators be approved
21 now. Above that I will allow 60 % of their fees to be paid now, subject of course, to the
22 outcome of the creditors committee's scrutiny and any representations to be made to the
23 Court in respect of the final approval of the claim.

1 I also allow fees of Mr. Stenger one of the official liquidators and (the Receiver
2 appointed in the United States in respect of his costs and fees incurred in the liquidation
3 there and here) and of Hunter & Hunter.

4 Costs reserved.

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12 ANTHONY SMELLIE
13 CHIEF JUSTICE
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16 DATED THE 14TH DAY OF JULY 2000.
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