

**COMMONWEALTH OF THE BAHAMAS**

**IN THE SUPREME COURT**

**Commercial Division**

**2019/COM/bnk/00077**

**IN THE MATTER of The Companies Act, 1992 Ch 308**

**AND**

**IN THE MATTER of the PACIFICO GLOBAL ADVISORS LTD.**

Before Hon. Mr. Justice Ian R. Winder

Appearances: Simone Morgan-Gomez with Philisea Bethel for the Joint Official Liquidators  
Ryan Brown for Petal Rose Holdings Ltd.  
Gail Lockhart-Charles QC for the Liquidation Committee

**RULING**

27 June 2022

## **WINDER J**

This is my brief decision on the application of Petal Rose Holdings Ltd. (Petal Rose) for an Order that the joint official liquidators pay to them the balance of any moneys held on trust with PGA.

### **Background**

1. PGA is a Bahamian Company which was incorporated on 30 September 2011. PGA was registered and licensed by the Securities Commission of The Bahamas (SCB) from 2012 to 2014 to provide investment advisory services and discretionary investment management services to its clients.
2. On 11 September 2015 the SCB issued to PGA a broker-dealer license and thereafter the principal activities offered to clients were managing securities, dealing as agent or principal, arranging deals in securities and advising on securities.
3. PGA, as investment manager and custodian on behalf of its clients, maintained bank accounts in PGA's name at various Custodian Banks ("Trust Accounts").
4. PGA was placed in voluntary liquidation on 2 October 2020 and by an Order of this Court dated 28 October 2019 (with the commencement date of the liquidation set at 2nd October 2019). Edmund Rahming was named as the Official Liquidator of PGA.
5. Edmund Rahming resigned as the Official Liquidator of PGA with effect from 30 July 2021. Mark Munnings and Tiphane Russell were appointed Joint Official Liquidators (JOLs) of PGA to replace Edmund Rahming.
6. By Summons dated 5 October 2021, the JOLs applied for and was eventually granted the sanction of the Court for the payment of 80% of the assets of individual trust clients.

7. Petal Rose, one such trust client, received 80% of its trust assets held with PGA on 7 January 2022. Petal Rose had earlier applied, by Summons dated 23 March 2021, seeking to obtain all of its assets held with PGA. The Court, having sanctioned the payment of 80% of the trust assets, compromised the need to hear Petal Rose's application of 23 March 2021. Petal Rose was not awarded the costs of its 23 March 2021 application which was not heard.

8. On 17 January 2022 the Court ordered that the JOLs be at liberty to charge the Trust Assets (including the remaining 20% of Petal Rose's) being held by PGA to pay 11% of the general liquidation costs and expense up to the date of the JOLs application to charge those assets.

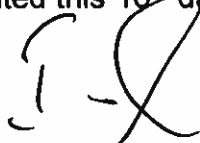
9. Petal Rose has filed a fresh Summons seeking again to have the JOLs pay all of the moneys currently held by PGA on its behalf.

10. In my view, the renewed application by Petal Rose is clearly premature.

11. I am advised that the liquidation is insolvent. The liquidation remains incomplete and the JOLs have foreshadowed a further application with respect to subsequent fees incurred on behalf of the Trust Assets beyond 15 June 2021 and which were not the subject of the January 2022 allocation ruling.

12. I order that the JOLs receive the costs of this application out of the liquidation estate. Petal Rose shall be entitled to receive the costs of preparing the application of 23 March 2021, which was not heard

Dated this 18<sup>th</sup> day of July, 2022



Ian R. Winder

Justice