



Deponent: Edmund L. Rahming  
No. of Affidavit: 19  
Date Sworn: 21<sup>st</sup> July 2021

IN THE SUPREME COURT OF THE BAHAMAS

COMMERCIAL DIVISION

CAUSE NO. COM/bnk/00077 OF 2019

IN THE MATTER OF THE COMPANIES ACT. 1992, CH. 308

AND IN THE MATTER OF PACIFICO GLOBAL ADVISORS LTD.

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## NINETEENTH AFFIDAVIT OF EDMUND L. RAHMING

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I, **EDMUND L. RAHMING**, Founder and Managing Director of Intelisys Ltd., Chartered Accountant and Certified Public Accountant of #2 Caves Professional Centre, Caves Village, West Bay Street and Blake in the Western District of New Providence, one of the Islands of the Commonwealth of The Bahamas, make **OATH** and **SAY** as follows:

1. That I am the Official Liquidator of Pacifico Global Advisors Ltd. (In Liquidation) ("**PGA**").
2. Unless otherwise stated the facts and matters deposed hereto are within my knowledge obtained by me in my capacity as the Official Liquidator of PGA ("**OL**"). Where the matters deposed hereto are not within my knowledge, they are derived from the sources which I identify and are true to the best of my information and belief.
3. There is now produced and shown to me a paginated bundle of true copies of documents to which I will refer in this affidavit marked "**Exhibit ELR-1**". References to page numbers are to those contained in that Exhibit. Where necessary, redactions have been made to preserve client confidentiality.

4. By an Order dated 28<sup>th</sup> October 2019 and filed herein on 8<sup>th</sup> November 2019 (“**the Supervision Order**”) the voluntary liquidation of PGA was put under the supervision of the Supreme Court of The Bahamas and I was appointed the OL of PGA. There is now produced and shown to me a true copy of the Supervision Order at pages 1 to 4 of **Exhibit ELR-1**.
5. This Affidavit is sworn in opposition to the PGA Liquidation Committee’s (“**LC**”) Affidavit of Sheila Cuffy (unfiled) that was sent to me by email at 6:25 p.m. yesterday (“**Cuffy Affidavit**”). That affidavit is in opposition to the Summons dated and filed herein on the 18<sup>th</sup> June 2021 (“**Summons**”) on behalf of the OL seeking that this Court *inter alia* sanction the payment of invoices (all in B\$ currency) by various service providers and the OL.
6. This affidavit is sworn for the purpose of:
  - a. Replying to various issues raised in the Cuffy Affidavit;
  - b. Addressing certain of the criticisms that have been made and challenges that have been raised the Liquidation Committee in its document titled “Detailed Points of Dispute of the Liquidation Committee on the Official Liquidator’s Cost Application”; and
  - c. Explaining why costs challenged by the Liquidation Committee have been necessarily, reasonably, competently and proportionately incurred.
7. The LC does not appear to appreciate that a Liquidator’s role, as mandated by the Companies (Winding Up Amendment) Act 2011 (“**CWUAA**”), Companies Liquidation Rules, 2012 and Insolvency Practitioners Rules 2012, involves more than simply transferring assets to persons who request them or transferring the proprietary

assets to the creditors. The statutory role of the Liquidator involves investigating the affairs of the company, analyzing the records of the company sufficiently to identify/recover/realize/protect and distribute trust assets and proprietary assets, identifying which assets are trust assets and which assets are proprietary assets, convening creditors' meetings, conducting the proof debt process, corresponding with Regulators as required/needed and many more tasks. Further a liquidator is statutorily mandated to use his discretion in undertaking his duties and is not statutorily mandated to follow the dictates of the LC. The LC appears to have taken umbrage because I did not transfer the trust assets and I actually worked as a competent liquidator attending to my statutory duties and not just the LC dictated duties.

8. There appears to be an overt effort to confuse the liquidation issues, to potentially confuse the parties, waste the Court's time on inconsequential matters and delay the approval of the costs. I found the critique of the costs by the LC to be significantly lacking in substance, truth and accuracy. Essentially every task that we undertook over the past nearly two years was considered by the LC as unnecessary and the related cost excessive.

#### **THE SHELIA CUFFY AFFIDAVIT**

9. Ms. Cuffy states at paragraphs 5, 6, and 11 that the LC had serious concern and was discontent with the OL not returning the client's assets early in the liquidation. I wish to remind the LC of the duty and role of the OL which includes investigating the affairs of the company and analyzing the records of the company sufficiently to identify/recover/realize/protect and distribute trust assets and proprietary assets per



s. 205 of the CWUAA. Further the LC has stated that I should have informed them beforehand that there were other members on my liquidation team, identified the tasks of each person and costs of the work to be done by each person prior to engaging such persons and directing them to work on this liquidation team. My engagement letter accepted by the shareholders prior to my liquidation referred to my team. Persons familiar with liquidations know that a liquidator does not work on a liquidation alone, but utilizes the services of a back office support team and attorneys to put the company into liquidation, carry out liquidation tasks, review documents/contracts, analyze why the company went into liquidation, analyze whether anyone could be successfully sued by the company for any wrongdoings, review and analyze the company records to identify creditors, secured creditors, trust claimants and to carry out other statutory duties. The OL was and continues to carry out his duties in the liquidation to all clients and creditors.

10. Ms. Cuffy states at paragraph 16 that she was instructed by the LC and she believes that my conduct raised serious concerns within the LC as to the distinction between clients and creditors. I am aware of the difference between clients and creditors.
11. At paragraph 17, Ms. Cuffy refers to a letter of November 24 from the LC counsel with queries on the claims adjudication process. I believe the queries were answered by the OL via telephone call with the LC counsel. It is not clear what point Ms. Cuffy is trying to make as regards the fee application.
12. I read paragraphs 18 to 21 of the Cuffy Affidavit regarding the Global Opportunities NX Sub Fund, which do not appear to pertain to the fee application. I stand by the statement I made in November 2020 in Court that essentially the NX Sub Fund was

a segregated account sub fund, was not a sub fund in receivership and that the circumstances related to it were different from the remaining trust assets. The contracts between PGA and NX Sub Fund were different from the contracts between PGA and the owners of the remaining trust assets. Further, it is my position that regardless of whether redemption requests were made prior to the liquidation, all assets in the company's name beneficially owned by another party are trust assets and s.204 CWUAA applies thereto. Hence, I filed the allocation summons regarding NX Sub Fund and the remaining trust assets paying portions of the liquidation costs. The LC seems to have forgotten that this Court has already given a March 2021 Ruling that the remaining trust assets are to be charged under s.204 and are trying to re-litigate that issue. The issue of the NX Sub Fund being a trust asset is yet to be decided and is a part of that allocation summons.

13. With regards to paragraph 22, I was not aware of the accounts that sought closing prior to the liquidation until we received the Second affidavit from the LC filed 29<sup>th</sup> December 2020. Upon reviewing the issue I was informed that the Company faced issues prior to the liquidation and was unable to fulfill account closing requests due inadequate KYC and due to its third party payment facility with Banca CredInvest being terminated on 25<sup>th</sup> March 2019. I was informed that the facility was terminated when Mr. Luca Lanciano requested and instructions were sent to CredInvest for the assets of the closed accounts to be sent to two blacklisted banks. I understand that Mr. Lanciano worked closely with the Company to try to reinstate the third-party transfer facility but ultimately failed. I understand this issue with the terminated third-party facility at Banca Credinvest also resulted in the Company not being able

to execute the transfer request for the NX Sub Fund assets. The facility was reinstated after the appointment of the VL. The above is summarily addressed in the Third Report of the OL. These matters can be more appropriately dealt with through affidavits from the former staff members and Mr. Luca Lanciano who were closely involved. I respectfully state that the inability of PGA to satisfy the redemption requests should not negatively affect the Summons for fees incurred by my team and me during the liquidation. There is now produced and shown to me a true copy of a letter from Credinvest regarding no longer processing payments at page 5 of **Exhibit ELR-1**.

**DETAILED POINTS OF DISPUTE OF THE LIQUIDATION COMMITTEE ON THE OFFICIAL LIQUIDATOR'S COST APPLICATION**

14. The Liquidation Committee has poorly critiqued the cost application. Its presentation of its review is disorganized, unnecessarily repetitive and unclear in most parts and unsubstantiated statements are made throughout. The LC has taken a peculiar approach in its poor critique of the costs. On one hand they state that the OL has not done what they think should have been done and that the OL has done insufficient work and on the other hand they state that too much unnecessary work has been done. This is contrary to the practice that is common in the jurisdiction that liquidation fees properly incurred, i.e. concerning the carrying out of statutorily mandated duties and industry standard duties for liquidators, are paid from the liquidation estate. This is the practice commonly used by the Court when deciding liquidation fee applications. The current ad hoc approach of the LC is of no substance.



15. The LC has been in possession of the invoices for the liquidation team since June 17 and has had over a month to review the specific time entries and comment substantively upon them.
16. Instead, the LC has mostly provided an argumentative list of general criticisms, colorful adjectives on the amount of the costs, and unsubstantiated statements and attacks without relating to the specific items of costs that have been claimed.
17. Accordingly, the Court is invited to proceed on the basis that unless costs are subject to specific and particularized challenge by the LC in accordance with the practice of this Court, there is no proper basis for the LC to challenge the claimed costs.
18. Below, I address the issues raised in the document:

At paragraphs 6, 7, and 9 the LC repeatedly asserts that the work undertaken by the OL and his team was unnecessary and the OL failed to return client assets. The natural inference is that the LC does not understand the liquidation process (although explained to it many times) and does not have a basis to challenge the costs on the basis of the specific work done.
19. We note at paragraph 9 and 10, the LC references the NX Sub funds. It is not clear the point the LC is attempting to make here. The OL does not view this as an issue. We believe the NX Sub Fund assets are trust assets in the liquidation, and we have presented them as such in the fee apportionment application. The Court will determine whether the evidence supports our view and provide an Order accordingly.
20. At paragraph 14 and 52 to 54, one may quickly infer that the LC lacks experience in liquidations. The LC accuses the OL of meddling in the assets by attempting to transfer the assets onshore. It is customary for an OL after assessing the jurisdictions

in which the assets are situate and relationships with the offshore custodian banks to attempt to transfer assets onshore and thereby within the jurisdiction of this Court. I have done this in the past. The purpose is to avoid jurisdictional recognition issues or other issues at the future time the Court orders an asset distribution. We attempted to bring the assets at Banca CredInvest and Swissquote to CIBC Private Wealth (Bahamas). We were met with difficulties as many of the assets were “non transferrable” or illiquid. We aborted the process when these issues were pointed out by the various custodians. This is a standard step I would take in a liquidation with these circumstances. The costs incurred are reasonable and reflective of a competent liquidator and his team.

21. At paragraph 17, the LC assert that there are time entries that are vague and of repetitive nature. The listed sample billing entries provide more than adequate explanation of the time entry work.
22. At paragraph 21, the LC addresses C&C Costs up to the Date of Supervision Order. Costs were incurred by C&C of \$52,450. The LC states that costs should be no more than \$7,000. The LC reasoning is that the amount is “excessive”, and this was a straightforward application. No substantive basis was provided for its challenge to the amount. We refer the Court to the time entries by C&C to note how the amount of \$52,450 was incurred.
23. At paragraph 25, the LC again states that the costs incurred by C&C after the Supervision order were excessive and should be \$20,000 rather than \$60,000. The reasoning again is the “mismanagement of the liquidation”, an unsubstantiated opinion by the LC.



24. At paragraph 29 to 39 “No distinction between the NX Assets, Trust Assets, and the sub fund Assets that Justice McKay ordered to be returned.” The LC appears to be making a statement with this title that all the trust assets are the same. The LC is not providing any support or reasoning for this a statement. The LC attacks the OL at paragraph 39 and again provides no substantive issue on the time entries related to the NX assets or remaining Trust assets.
25. At paragraphs 40 to 41, “OL cost applications for payment out of trust assets”, the LC fails to understand that the applications made were in line with the customary statutory procedure in a liquidation and went beyond simply applying costs to trust assets but included direction on the distribution thereof. The LC provides no substantive basis for decreasing the costs in this area from \$108,059.38 to \$5,000. It simply states that it believes this is justified given the Justice McKay Ruling. The LC appears to have no appreciation for the liquidation procedure and processes.
26. At paragraph 42, “OL costs charges for preparation of costs”, the LC does not understand the work identified in the time entries. The LC has attempted to combine very different types of costs incurred and then states they should be decreased from a total of \$52,512 to \$3,000. The LC appears to be attempting to mix and match costs without properly reviewing the details. Again no substantive basis for the combination of very different cost entries and the reduction in the total costs.
27. At paragraphs 43 to 48, various titles were provided. The LC makes general statements on the costs but no substantive basis for the recommendations in reduction in the costs is provided.

28. At Paragraph 49, the LC is advising that it is unclear that the OL has identified the creditors of the Company. The LC makes such a statement knowing that a POD adjudication process has been completed as confirmed in my reports.
29. At paragraph 50, the LC simple accuses the OL of making an unclear statement. The paragraph does not address a concern on a cost entry.
30. Paragraph 51 again refers to a November 24 letter which was sent to me and I properly responded to by addressing with the LC counsel. It is not clear what the complaint is by the LC on this matter at this time.
31. At paragraphs 55 to 57, the LC takes issues with the accounting maintenance work my staff and I perform every month. The LC provides no credible support for its issue with these costs it simply states that the work is done by Finamic. The LC is clearly misinformed and does not understand the extensive work that goes into maintaining the accounting monthly. At paragraph 57, the LC appears to question the \$30 charge for account statements. It is customary for liquidators to charge for retrieving account statements, particularly when the statements are being repeatedly requested.
32. At paragraphs 58 to 64, the LC consider as excessive and unreasonable “charges for daily inbox monitoring”, “Scanning files and moving to storage”, “Sale of furniture”, “team meetings”, “fraudulent transfer analysis”, “Financial model work”, and “OL costs for preparation of reports”. The LC provides no substantive reasons for its assertion that the costs incurred in these areas are excessive and unreasonable. The hourly rates were approved by the Court at the outset of the liquidation.

33. It appears the LC simply has the issue that the OL did not follow its view to immediately return the client assets upon appointment. The OL has had the responsibility of ensuring the liquidation process is fair and transparent. A significant amount of work has been undertaken and completed to-date. This work is described in the First, Second and Third Reports of the OL. This work is of substantive and of substantial benefit to the creditors and clients of the Company. The LC has provided no substantive bases for objecting to the time entries and therefore we invite the Court to accept the fee application made.
34. I verily believe that I have fulfilled all of the IPR requirements to enable me to receive a payment on account of 80% of the remuneration sought in this affidavit.
35. I humbly request that this Honourable Court sanction the payment of the invoices in the amounts indicated in the Summons. Alternatively, I humbly request the Court sanction the payment of eighty percent of the invoices per Rule 10(2) IPR and direct the invoices be taxed, if not agreed.
36. The content of this Affidavit is true and correct to the best of my knowledge, information and belief.

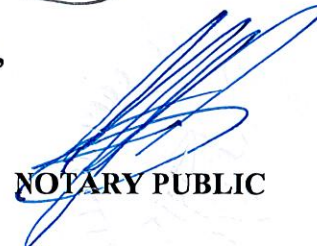
**SWORN TO** at the City of Nassau )

New Providence, this 21st day of )

July, A.D., 2021 )



**BEFORE ME,**



**NOTARY PUBLIC**



**IN THE SUPREME COURT OF THE BAHAMAS**

**COMMERCIAL DIVISION**

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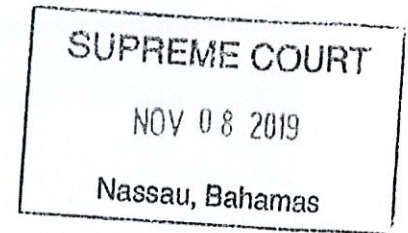
**C E R T I F I C A T E**

This is the **Exhibit** marked “**ELR-1**” referred to in the Affidavit of **EDMUND L. RAHMING** sworn to the 21<sup>st</sup> day of July, A.D., 2021.

**DATED** the 21<sup>st</sup> day of July, A.D., 2021.

  
**NOTARY PUBLIC**

IN THE SUPREME COURT OF THE BAHAMAS  
COMMERCIAL DIVISION



CAUSE NO. COM/bnk/00077 OF 2019

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**SUPERVISION ORDER**

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**BEFORE** the Honourable Mr. Justice Ian Winder, Judge of the Supreme Court,  
in Chambers.

**UPON HEARING** Mrs. Simone Morgan-Gomez, Mrs. Courtney Pearce-Hanna  
and Ms. Philisea Bethel Counsel for Mr. Edmund Rahming of INTELISYS, 2 Caves  
Professional Center, Caves Village, West Bay Street & Blake Road, Nassau, The Bahamas  
("Voluntary Liquidator") upon his petition for an order that the liquidation of Pacifico  
Global Advisors Ltd. ("the Company") continue under the supervision of the Court and  
Messrs. Gawaine Ward and Gladstone Brown of the Securities Commission of The  
Bahamas.

**AND UPON READING** the following documents: Winding Up Petition dated 23<sup>rd</sup>  
October 2019 and filed herein on 24<sup>th</sup> October 2019; Summons for Directions dated 23<sup>rd</sup>  
October 2019 and filed herein on 4<sup>th</sup> October 2019; First Affidavit of Edmund Rahming:  
in Support of Winding Up Petition sworn 23<sup>rd</sup> October 2019 and filed herein on 24<sup>th</sup>  
October 2019; Second Affidavit of Edmund Rahming: Regarding Acceptance of

Appointment as Official Liquidator sworn 23<sup>rd</sup> October 2019 and filed herein on 24<sup>th</sup> October 2019 and Certificate of Urgency dated 24<sup>th</sup> October 2019 and filed herein on 25<sup>th</sup> October 2019.

**AND UPON THE COURT BEING SATISFIED** that the Voluntary Liquidator is a qualified insolvency practitioner.

**IT IS HEREBY ORDERED THAT:**

1. The liquidation of the Company be continued under the supervision of the Court.
2. The commencement date of the liquidation herein is 2<sup>nd</sup> October 2019.
3. Mr. Edmund Rahming, Chartered Accountant and Managing Director in the accountancy and asset recovery services company of Intelisys Ltd., situate at 2 Caves Professional Center, Caves Village, West Bay Street & Blake Road, Nassau, The Bahamas be appointed as the Official Liquidator of the Company.
4. The company INTELISYS of 2 Caves Professional Center, Caves Village, West Bay Street & Blake Road, Nassau, The Bahamas be appointed to provide back office support services to the Company.
5. The law firm of Callenders & Co. of No.1 Millars Court, Nassau, The Bahamas be appointed to provide which will provide general counsel legal services.
6. All costs incurred by Mr. Rahming and his advisors to date shall be costs in the liquidation.



7. The Official Liquidator of the Company has liberty to apply.

**DATED the 28<sup>th</sup> day of October, A.D., 2019.**

**FILED the 8<sup>th</sup> day of November, A.D., 2019.**

**BY ORDER OF THE COURT**

**REGISTRAR**

This Order was filed by **CALLENDERS & CO.**, of No. 1 Millars Court, Nassau, N.P.  
Attorneys for the Official Liquidator.

**IN THE SUPREME COURT OF THE  
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**SUPERVISION ORDER**

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**2019**

**COM/bnk/00077**

  
**CALLENDERS & CO.**

Chambers  
One Millars Court  
Nassau, N.P., The Bahamas

**Attorneys for the Official Liquidator**

*SAM-G/PB/25078.0001*

PACIFICO GLOBAL ADVISORS LTD  
#1 Pineapple House  
Old Fort Bay, Western Road  
Nassau  
Bahamas

Lugano, 25 March 2019

**RE: Termination of the BROKER DEALER – GENERAL TERMS FOR PAYMENT SERVICE (the "Agreement")**

Dear Mr. Klein,

we refer to the payment service offered by Banca Credinvest SA to Pacifico Global Advisor Ltd, in virtue of the Agreement signed between the parties on 27 November 2017, as amended from time to time.

Following the outcomes of the Financial Action Task Force (FATF) Plenary meeting held on 22 February 2019 and the inclusion of The Bahamas in the list of jurisdictions with strategic AML/CFT deficiencies, FINMA called on all financial intermediaries under its supervision to take the FATF information into account in their risk management strategies.

In this respect, we regret to inform you that Banca Credinvest has decided to terminate the Agreement and hereby notifies you that starting from 1 April 2019 Banca Credinvest will stop processing payments.

We remain available for any questions.

Yours sincerely,

**BANCA CREDINVEST SA**



**Donatella Favalli**  
Deputy General Manager



**Alex Oberholzer**  
Head of Institutional Clients



**IN THE SUPREME COURT OF THE BAHAMAS**

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**IN THE MATTER OF THE COMPANIES ACT,  
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**NINETEENTH AFFIDAVIT  
OF  
EDMUND L. RAHMING**

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**2019**

**COM/bnk/00077**

*Callenders & Co.*  
**CALLENDERS & CO.**

Chambers  
One Millars Court  
Nassau, N.P., The Bahamas

**Attorneys for the Official Liquidator**

*SAM-G/PB/25078.0001*