

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

|  |   |                         |
|--|---|-------------------------|
| In re:   | ) | Case No. 16-11895 (JLG) |
| CHINA FISHERY GROUP LIMITED (CAYMAN), <i>et al.</i> , <sup>1</sup> | ) | Chapter 11              |
| Debtors.   | ) | (Jointly Administered)  |
|  | ) | <b>Docket No. 2824</b>  |
| In re:   | ) | Case No. 16-11914 (JLG) |
| CFG PERU INVESTMENTS PTE. LTD. (SINGAPORE),                        | ) | Chapter 11              |
| Debtor.  | ) | (Jointly Administered)  |
|  | ) | <b>Docket No. 730</b>   |

**ORDER GRANTING CREDITOR PLAN PROPONENTS' FIRST MOTION  
FOR SANCTIONS IN THE FORM OF COMPENSATORY DAMAGES AGAINST  
SUN SECURITIES LIMITED AND CERTAIN AFFILIATED PARTIES FOR COSTS  
INCURRED FOR WILLFUL FAILURE TO COMPLY WITH ENFORCEMENT ORDER**

Upon the motion (the “**Motion**”)<sup>2</sup> of the Creditor Plan Proponents for entry of an order (this “**Order**”), (a) holding Sun Securities and its key principals, Chau Vinh Heng, Sam Hui, May Ho, Dickson Cheung, Raymond Cole, Edwina Shui Ming Tong, and Sun Kuen Chu (collectively, the “**Affiliated Parties**”), in civil contempt for their willful failure to comply with the Enforcement

<sup>1</sup> The debtors in these chapter 11 cases are China Fishery Group Limited (Cayman), Pacific Andes International Holdings Limited (Bermuda), N.S. Hong Investment (BVI) Limited, South Pacific Shipping Agency Limited (BVI), China Fisheries International Limited (Samoa), CFGI (Singapore) Private Limited, Chanery Investment Inc. (BVI), Champion Maritime Limited (BVI), Growing Management Limited (BVI), Target Shipping Limited (HK), Fortress Agents Limited (BVI), Ocean Expert International Limited (BVI), Protein Trading Limited (Samoa), CFG Peru Investments Pte. Ltd. (Singapore), Smart Group Limited (Cayman), Super Investment Limited (Cayman), Pacific Andes Resources Development Limited (Bermuda), Nouvelle Foods International Ltd., Golden Target Pacific Limited, Pacific Andes International Holdings (BVI) Limited, Zhonggang Fisheries Limited, Admired Agents Limited, Chiksano Management Limited, Clamford Holding Limited, Excel Concept Limited, Gain Star Management Limited, Grand Success Investment (Singapore) Private Limited, Hill Cosmos International Limited, Loyal Mark Holdings Limited, Metro Island International Limited, Mission Excel International Limited, Natprop Investments Limited, Pioneer Logistics Limited, Sea Capital International Limited, Shine Bright Management Limited, Superb Choice International Limited, and Toyama Holdings Limited (BVI).

<sup>2</sup> Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Motion or the *Creditor Plan Proponents' Chapter 11 Plan for CFG Peru Investments Pte. Ltd. (Singapore)* [Docket No. 2564] (as amended, supplemented, or modified from time to time, the “**Chapter 11 Plan**”).

Order and (b) awarding the Creditor Plan Proponents compensatory damages in an amount equal to at least the Compensatory Damages Amount (as defined below) or such other amount as the Court deems appropriate and necessary, as more fully set forth in the Motion; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of CFG Peru, its estate, its creditors, including the Creditor Plan Proponents, and other parties in interest; and it appearing that notice of the Motion has been given as set forth in the Motion and that such notice is adequate under the circumstances and no other or further notice need be given; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

**THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT:**

A. On June 30, 2016, CFG Peru and certain affiliates commenced voluntary chapter 11 cases with the Court.

B. On September 7, 2017, the former Chapter 11 Trustee filed the Injunction Motion, seeking an order confirming that the automatic stay under section 362 of the Bankruptcy Code enjoined enforcement actions by holders of Club Facility Claims and Senior Notes against the Peruvian OpCos.

C. On September 7, 2017, notice of the Injunction Motion was sent directly to counsel to the Club Facility Agent on behalf of all of the Club Facility Lenders.

D. On October 4, 2017, the Court entered the Injunction Order.

E. On March 16, 2021, the Creditor Plan Proponents—on behalf of the parties to the Restructuring Support Agreement—filed the Chapter 11 Plan and Disclosure Statement and began to prosecute confirmation of the Chapter 11 Plan.

F. On April 30, 2021, the Confirmation Hearing Notice, a copy of the Chapter 11 Plan, and additional solicitation materials were served by Epiq Corporate Restructuring, LLC via email on the holders of claims entitled to vote to accept or reject the Chapter 11 Plan, including Sun Securities. On May 7, 2021, updated solicitation materials were served by first class mail, with PDF copies of the documents served via email, upon Sun Securities and other interested parties.

G. On June 10, 2021, the Court entered the Confirmation Order.

H. On October 28, 2021, the Creditor Plan Proponents filed the Motion, seeking to enforce the Injunction Order and Confirmation Order.

I. On October 29, 2021, the Court entered the Enforcement Order, and the Creditor Plan Proponents caused the Enforcement Order to be served on Sun Securities, the Affiliated Parties, and Squire Patton Boggs via overnight mail, email, and facsimile.

J. On November 1, 2021, a copy of the Enforcement Order was hand delivered via messenger service to Sun Securities, the Affiliated Parties, and Squire Patton Boggs.

K. On November 8, 2021, the Creditor Plan Proponents provided additional notice of the Enforcement Order to certain Affiliated Parties.

L. On November 12, 2021, the Creditor Plan Proponents notified Sun Securities that the Creditor Plan Proponents planned to seek reimbursement for damages incurred from the Court

against Sun Securities unless Sun Securities confirmed in writing on or before noon (prevailing Eastern Time) on November 15, 2021 that it would comply with the Enforcement Order. That same day, the Creditor Plan Proponents sent demand letters to the Affiliated Parties demanding that they confirm in writing on or before November 19, 2021 that they have ceased to continue to prosecute the Enforcement Proceeding. *See Certificate of Service* [Docket No. 2823].

M. The Court has determined that it has personal jurisdiction over Sun Securities and each Affiliated Party. Under applicable law, a court has personal jurisdiction if: **first**, that party “has the requisite minimum contacts with the United States at large,” *Sec. Investor Prot. Corp. v. Bernard L. Madoff Inv. Sec., LLC*, 460 B.R. 106, 117 (Bankr. S.D.N.Y. 2011); and, **second**, the court determines that its exercise of personal jurisdiction is reasonable, *Asahi Metal Indus. Co., Ltd. v. Super Ct. Cal.*, 480 U.S. 102, 113 (1987).

N. For the reasons set forth in the Motion, the Enforcement Order, the Chapter 11 Plan, and the Confirmation Order confirming the Chapter 11 Plan, the Court has determined that Sun Securities and each Affiliated Party has the minimum contacts with the United States necessary for the Court to exercise its jurisdiction over Sun Securities and each Affiliated Party. First, Sun Securities is subject to this Court’s jurisdiction because it received actual notice of the Chapter 11 Plan and has already begun to accept distributions under the Chapter 11 Plan because, among other things: (i) the Creditor Plan Proponents provided actual notice to Sun Securities of the Chapter 11 Plan, and the Plan Administrator subsequently caused CFGI to provide notice to Sun Securities of the Restructuring Plan; (ii) by virtue of those notices, Sun Securities and each Affiliated Party had notice of the Chapter 11 Plan and the transactions contemplated thereby, including the proposed \$75-million Interim Distribution; (iii) consistent with the Chapter 11 Plan, on September 27, 2021, the Plan Administrator effectuated the first tranche of the Interim Distribution in an amount equal

to \$50 million, of which approximately \$1.848 million was remitted to Sun Securities; and (iv) by virtue of the fact that it received estate property from an estate fiduciary in accordance with a confirmed chapter 11 plan, Sun Securities consented to this Court's jurisdiction. Second, Sun Securities and each Affiliated Party have taken actions that have an effect in the United States (including on the Chapter 11 Plan confirmed by the Court) including, without limitation, actions that have required (i) CFGI to adjourn the UK Proceeding's sanction hearing from November 3, 2021 to January 2022, (ii) the Creditor Plan Proponents to modify the December 31, 2021 long-stop date contemplated by the Restructuring Support Agreement, and (iii) the Creditor Plan Proponents to incur millions of dollars in unnecessary professional fees directly related to addressing the Enforcement Proceeding and other subversive actions by Sun Securities and the Affiliated Parties.

O. For the reasons set forth in the Motion, the Enforcement Order, the Chapter 11 Plan, and the Confirmation Order confirming the Chapter 11 Plan, the Court has determined that the Court's exercise of jurisdiction over Sun Securities and each Affiliated Party is reasonable. In exercising jurisdiction, courts consider: "(1) the burden that the exercise of jurisdiction will impose on the defendant; (2) the interests of the forum state in adjudicating the case; [and] (3) the plaintiff's interest in obtaining convenient and effective relief . . . ." *Licci ex rel. Licci v. Lebanese Canadian Bank, SAL*, 732 F.3d 161, 170 (2d Cir. 2013). The Court has determined that each of these factors strongly favors the Court exercising jurisdiction over Sun Securities in this case.

P. For the reasons set forth in the Motion, the Enforcement Order, the Chapter 11 Plan, and the Confirmation Order confirming the Chapter 11 Plan, the Court has determined that the Court will not impose any burden on Sun Securities and each Affiliated Party by exercising its jurisdiction in this case because (i) Sun Securities became a holder of record under the Club

Facility in 2017, after the commencement of these cases in this Court and, therefore, Sun Securities became a holder of record after the Debtors filed for chapter 11 without warning and after the Court ordered the appointment of a chapter 11 trustee; and (ii) Sun Securities is not an unsophisticated party that was unaware that its conduct may violate a prior Court order as evidenced by the fact that it was a lender of record at the time that the Court entered the Injunction Order, notice of which was provided to the Club Facility Agent. Similarly, Sun Securities received actual notice of the Chapter 11 Plan, including the opportunity to vote to reject the Chapter 11 Plan and opt out of the third-party releases as part of the confirmation process.

Q. For the reasons set forth in the Motion, the Enforcement Order, the Chapter 11 Plan, and the Confirmation Order confirming the Chapter 11 Plan, the Court has determined that the Court has a significant interest in exercising jurisdiction in this matter. U.S. courts have a pronounced interest in ensuring that the nation's bankruptcy laws are properly enforced, and that bankruptcy related disputes are all heard and resolved in the single centralized forum as designed and intended by Congress. *See Off. Comm. of Unsecured Creditors of Arcapita v. Bahrain Islamic Bank*, 549 B.R. 56, 71 (S.D.N.Y. 2016). Consistent with this principle, the Court has an interest in ensuring that its orders, such as the Enforcement Order, the Injunction Order, and the Confirmation Order, are enforced according to their terms. *See In re MF Glob. Holdings Ltd.*, 561 B.R. 608, 623-624 (Bankr. S.D.N.Y. 2016).

R. For the reasons set forth in the Motion, the Enforcement Order, the Chapter 11 Plan, and the Confirmation Order confirming the Chapter 11 Plan, the Court has determined that the Creditor Plan Proponents have a significant interest in the requested relief because, in the face of the former Chapter 11 Trustee's failed sale process, ~~and refusal to consider any other restructuring construct,~~ [JLG] the Creditor Plan Proponents determined that it was necessary to propose a

chapter 11 plan. The decision of a creditor to file a plan without a trustee's support is an exceptionally rare occurrence; a decision of this magnitude required the Creditor Plan Proponents to incur significant costs in terms of delay, professional fees, and missed opportunity costs.

S. Sun Securities' actions put at risk CFG Peru's years-long restructuring. The Enforcement Proceeding, if not abated, will increase the risk that the restructuring will become mired in a lengthy insolvency proceeding that may prevent consummation of the Chapter 11 Plan, pursuant to which the Peruvian OpCos will discharge hundreds of millions of dollars of funded indebtedness, lock in \$150 million in new capital, and emerge as a going concern.

T. The Creditor Plan Proponents have incurred legal fees, costs, and expenses of not less than \$1,238,547.32 to date as a direct result of Sun Securities' violation of prior orders of this Court (the "**Compensatory Damages Amount**").

Based upon the foregoing findings, the Motion, and the record before this Court with respect to the Motion, and good and sufficient cause appearing therefor, **IT IS HEREBY ORDERED THAT:**

1. The Motion is granted.
2. Sun Securities and the Affiliated Parties are in contempt of the Injunction Order, the Chapter 11 Plan, the Confirmation Order confirming the Chapter 11 Plan, and the Enforcement Order.
3. The Creditor Plan Proponents are awarded compensatory damages against Sun Securities in an amount equal to the Compensatory Damages Amount (*i.e.*, \$1,238,547.32).
4. The Creditor Plan Proponents are awarded compensatory damages against Chau Vinh Heng in an amount equal to the Compensatory Damages Amount (*i.e.*, \$1,238,547.32).

5. The Creditor Plan Proponents are awarded compensatory damages against Sam Hui in an amount equal to the Compensatory Damages Amount (*i.e.*, \$1,238,547.32).

6. The Creditor Plan Proponents are awarded compensatory damages against May Ho in an amount equal to the Compensatory Damages Amount (*i.e.*, \$1,238,547.32).

7. The Creditor Plan Proponents are awarded compensatory damages against Dickson Cheung in an amount equal to the Compensatory Damages Amount (*i.e.*, \$1,238,547.32).

8. The Creditor Plan Proponents are awarded compensatory damages against Raymond Cole in an amount equal to the Compensatory Damages Amount (*i.e.*, \$1,238,547.32).

9. The Creditor Plan Proponents are awarded compensatory damages against Edwina Shui Ming Tong in an amount equal to the Compensatory Damages Amount (*i.e.*, \$1,238,547.32).

10. The Creditor Plan Proponents are awarded compensatory damages against Sun Kuen Chu in an amount equal to the Compensatory Damages Amount (*i.e.*, \$1,238,547.32).

11. For the avoidance of any doubt, the Creditor Plan Proponents shall not be entitled to recover an amount greater than the Compensatory Damages Amount in the aggregate pursuant to this Order or any proceedings to enforce this Order.

12. Entry of this Order is without prejudice to the Creditor Plan Proponents' right to assert further claims and causes of action (including additional claims for compensatory damages) against Sun Securities and the Affiliated Parties as well as any other persons or entities that support, or have taken any action to aid and abet, Sun Securities.

13. Notwithstanding anything to the contrary, the terms and conditions of this Order are immediately effective and enforceable upon its entry.

14. The Creditor Plan Proponents are authorized to take all actions necessary to effectuate the relief granted in this Order without further order of this Court (including, for the



avoidance of any doubt, by the Creditor Plan Proponents commencing any proceeding under applicable non-bankruptcy law to demand payment from Sun Securities or any Affiliated Party and commencing any winding up petition, bankruptcy, or other proceeding, whether or not Sun Securities or any Affiliated Party has consented to the commencement of any such winding up petition, bankruptcy, or other proceeding).

15. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated: December 15, 2021  
New York, New York

/s/ *James L. Garrity, Jr.*

THE HONORABLE JAMES L. GARRITY, JR.  
UNITED STATES BANKRUPTCY JUDGE