

QUINN EMANUEL URQUHART & SULLIVAN LLP

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New York, New York 10010

*Counsel for William A. Brandt, Jr., Chapter 11 Trustee
for CFG Peru Investments Pte. Ltd. Singapore*

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

In re:	:	
	:	Chapter 11
CHINA FISHERY GROUP LIMITED (CAYMAN)	:	
<i>et al.,</i>	:	Case No. 16-11895 (JLG)
Debtors.¹	:	(Jointly Administered)
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In re:	:	
	:	Chapter 11
CFG Peru Investments Pte. Limited (Singapore),	:	
Debtor.	:	Case No. 16-11914 (JLG)
	:	(Jointly Administered)

**NOTICE OF MOTION OF CHAPTER 11 TRUSTEE PURSUANT TO 11 U.S.C.
§§ 105(A) AND 363 AND FED. R. BANKR. P. 9019 FOR ORDER (I) APPROVING
SETTLEMENT AGREEMENT RESOLVING HONG KONG ACTION WITH
CERTAIN LIQUIDATION COMPANIES HCA 836/2019,
(II) AUTHORIZING CORPORATE GOVERNANCE ACTIONS, AND
(III) GRANTING RELATED RELIEF**

¹ 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), CFGL (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. Limited (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) (the “**Debtors**”).

PLEASE TAKE NOTICE that William A. Brandt, Jr., not individually but solely in his capacity as chapter 11 trustee (the “**Trustee**”) of CFG Peru Investments Pte. Limited (Singapore) (“**CFG Peru**”), which is the 100% shareholder of debtor Protein Trading Limited (“**Protein Trading**”), filed a motion (the “**Motion**”) to this Court for entry of an order, (i) authorizing and approving the Settlement Agreement and Mutual Release substantially in the form of the agreement attached to the Motion as Exhibit B, resolving the litigation initiated by the CFGI Liquidation Plaintiffs on May 10, 2019 against and CFG Peru’s non-debtor subsidiary, CFG Investment S.A.C. (“**CFG**”),² before the High Court of the Hong Kong Special Administrative Region, Action No. HCA 836/2019; (ii) authorizing the Trustee to take all corporate governance actions; and (iii) granting related relief.

PLEASE TAKE FURTHER NOTICE that a hearing (the “**Hearing**”) on the Motion will be held on **Tuesday March 16, 2021 at 11:00 a.m.** (prevailing Eastern Time) before the Honorable James L. Garrity, Jr., United States Bankruptcy Judge, at the United States Bankruptcy Court, Courtroom 601, One Bowling Green, New York, New York 10004.

PLEASE TAKE FURTHER NOTICE that, in accordance with General Order M-543, the Hearing will be conducted telephonically. Instructions for participating in the telephonic hearing using Court Solutions can be found on the Court’s website (www.nysb.uscourts.gov).

PLEASE TAKE FURTHER NOTICE that any response or objection (a “**Response**” or “**Objection**”) to the Motion, if any, shall be in writing, shall conform to the

² Quinn Emanuel advises CFGI as lead counsel in connection with the CFGI HK Action and has, for the purpose of complying with applicable Hong Kong regulations, engaged local counsel for certain matters, including entering court appearances, including Tanner De Witt and Temple Chambers (Eva Sit SC). See ECF No. 1668 (Trustee’s Motion For Order Pursuant To Bankruptcy Code Sections 105(a) And 363(b) And Bankruptcy Rules 2002 And 6004 Authorizing Taking Corporate Governance Actions In Connection With Retention Of Quinn Emanuel Urquhart & Sullivan, LLP By Non-Debtor CFG Investment S.A.C.).

Bankruptcy Rules and the Local Bankruptcy Rules for the Southern District of New York (the “Local Rules”), and shall be filed with the Court electronically in accordance with General Order M-399 by registered users of the Court’s case filing system (the User’s Manual for the Electronic Case Filing System can be found at <http://www.nysb.uscourts.gov>, the official website for the Court), with two (2) hard copies single-sided delivered directly to the Chambers of the Honorable James L. Garrity, Jr., pursuant to Local Rule 9070-1 and served so as to be actually received no later than **Monday March 1, 2021 at 4:00 p.m.** (prevailing Eastern Time).

PLEASE TAKE FURTHER NOTICE that if an Objection to the Motion is not received by the Objection Deadline, the relief requested shall be deemed unopposed, and the Bankruptcy Court may enter an order granting the relief sought without a hearing.

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PLEASE TAKE FURTHER NOTICE that objecting parties are required to attend the Hearing, and failure to appear may result in relief being granted or denied upon default.

QUINN EMANUEL URQUHART & SULLIVAN LLP

Dated: New York, New York
February 19, 2021

By:



James C. Tecce
51 Madison Avenue, 22nd Floor
New York, New York 10010

*Counsel for William A. Brandt, Jr., Chapter
11 Trustee for CFG Peru Investments Pte.
Ltd. (Singapore)*

QUINN EMANUEL URQUHART & SULLIVAN LLP
James C. Tecce
52 Madison Avenue
New York, New York 10010

*Counsel for William A. Brandt, Jr., Chapter 11 Trustee
for CFG Peru Investments Pte. Ltd. Singapore*

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

In re:	:	
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CHINA FISHERY GROUP LIMITED (CAYMAN)	:	
<i>et al.</i> ,	:	Case No. 16-11895 (JLG)
Debtors.¹	:	
	:	(Jointly Administered)
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In re:	:	
	:	Chapter 11
CFG Peru Investments Pte. Limited (Singapore),	:	
Debtor.	:	Case No. 16-11914 (JLG)
	:	
	:	(Jointly Administered)

**MOTION OF CHAPTER 11 TRUSTEE PURSUANT TO 11 U.S.C. §§ 105(A) AND 363
AND FED. R. BANKR. P. 9019 FOR ORDER (I) APPROVING SETTLEMENT
AGREEMENT RESOLVING HONG KONG ACTION WITH CERTAIN LIQUIDATION
COMPANIES HCA 836/2019, (II) AUTHORIZING CORPORATE GOVERNANCE
ACTIONS, AND (III) GRANTING RELATED RELIEF**

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), CFGL (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. Limited (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) (the “Debtors”).

William A. Brandt, Jr., not individually but solely in his capacity as chapter 11 trustee (the “**Trustee**”) of CFG Peru Investments Pte. Limited (Singapore) (“**CFG Peru**”), which is the 100% shareholder of debtor Protein Trading Limited (“**Protein Trading**”), hereby moves (the “**Motion**”) before this Court for entry of an order substantially in the form attached hereto as **Exhibit A** (the “**Order**”),

- (i) authorizing and approving, pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), the Settlement Agreement And Mutual Release substantially in the form of the agreement attached hereto as **Exhibit B** (the “**Settlement Agreement**”) resolving litigation against CFG Peru’s non-debtor subsidiary, CFG Investment S.A.C. (“**CFGI**”), and authorizing the Trustee to perform all such other and further acts as may be required in connection with the Settlement Agreement;
- (ii) authorizing the Trustee to take all corporate governance actions desirable or necessary to effectuate the Settlement Agreement pursuant to sections 363 and 105(a) of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (as amended, the “**Bankruptcy Code**”), including, but not limited to, granting proxies to vote CFG Peru’s shares in its direct subsidiaries to authorize such entities to enter into the Agreement and replacing the current directors, general managers, and legal representatives of certain of CFG Peru’s direct subsidiaries as necessary to enable the entities to enter into the Settlement Agreement; and
- (iii) granting related relief.

In support of the Motion, the Trustee relies upon and incorporates by reference the declaration of William A. Brandt, Jr. in support of the Motion (the “**Brandt Declaration**”), attached hereto as **Exhibit C**, and, by and through his undersigned counsel,² respectfully represents as follows:

² Quinn Emanuel advises CFGI as lead counsel in connection with the CFGI HK Action and has, for the purpose of complying with applicable Hong Kong regulations, engaged local counsel for certain matters, including entering court appearances, including Tanner De Witt and Temple Chambers (Eva Sit SC). See ECF No. 1668 (Trustee’s Motion For Order Pursuant To Bankruptcy Code Sections 105(a) And 363(b) And Bankruptcy Rules 2002 And 6004 Authorizing Taking Corporate Governance Actions In Connection With Retention Of Quinn Emanuel Urquhart & Sullivan, LLP By Non-Debtor CFG Investment S.A.C.).

PRELIMINARY STATEMENT³

1. Court-Ordered mediation has proven successful and produced the settlement of litigation that the Trustee has long-argued was an impediment to his ability to conclude CFG Peru's Chapter 11 Case. Each of PAE, Solar Fish, Europaco, Palanga, and Zolotaya (collectively, the "**CFGI Liquidation Plaintiffs**") have agreed to settle the litigation that they initiated against CFGI on May 10, 2019 before the High Court of the Hong Kong Special Administrative Region, Action No. HCA 836/2019 (the "**CFGI HK Action**"). This settlement follows significant efforts by the Mediator and the parties to the CFGI HK Action. Its approval will significantly benefit CFGI, CFG Peru, Protein Trading, and more generally the progress of CFG Peru's Chapter 11 Case.

2. Since his appointment, the Trustee has tirelessly worked to fulfill his mandate to identify the best way to maximize the value of the Peruvian OpCos for the benefit of the Debtors' estates. The Trustee first encountered the Peruvian OpCos⁴ without any working-capital credit lines, with minimal cash available, and the subject of involuntary proceedings commenced by creditors in Peru with the INDECOPI.⁵ He since has negotiated a dismissal of the INDECOPI proceedings, facilitated the Peruvian OpCos' operational return to profitability, and cleared various other obstacles to either a sale of CFG Peru's direct and indirect equity interests in the Peruvian OpCos or an alternative transaction that would compromise the

³ Capitalized terms not otherwise defined in this Preliminary Statement have the meanings ascribed to them in this Motion below.

⁴ CFGI and Corporacion Pesquera Inca S.A.C. are the "**Peruvian OpCos**".

⁵ Insolvency proceedings in Peru are not filed before the judiciary but before a governmental agency named "*Instituto Nacional de Defensa de la Competencia y de Proteccion de la Propiedad Intelectual*," also known by its acronym "**INDECOPI**," and, in particular, before the "*Comision de Procedimientos Concursales*," which is part of the INDECOPI.

Peruvian OpCos' third-party debt, e.g., the Club Loan⁶ and the Notes. Nevertheless, a significant impediment to either a sale or alternative transaction remained in the form of claims put forth by certain liquidators (the "**Liquidators**") appointed by the Eastern Caribbean Supreme Court in the High Court of Justice, British Virgin Islands (the "**BVI Court**") for certain entities affiliated or alleged to be affiliated with the Pacific Andes Group⁷ against CFGI in the CFGI HK Action that allege a tenuous connection to the supposed trade-finance fraud and seek damages of \$152 million.⁸

3. In March 2019, the Trustee objected to the original proofs of claim filed against CFG Peru by three Liquidation Companies (PAE, Solar Fish, and Parkmond, collectively, "**Liquidation Claimants**") which alleged trade-finance fraud and "round tripping" transactions generally, but said nothing about CFG Peru. The Liquidation Claimants asserted that PAE and Europaco obtained approximately \$5.57 billion in trade-finance facilities from various financial institutions between September 2010 and August 2015. Instead of using those funds to supply fish (as represented), PAE and Europaco allegedly circulated the funds through various companies in the Pacific Andes Group and certain "Agent Companies" allegedly

⁶ The loan (the "**Club Loan**") made pursuant to the \$650 million unsecured facility agreement dated March 20, 2014 among CFIL (Debtor), CFGL (Debtor), CFGI (non-Debtor), and non-Debtor Corporacion Pesquera Inca S.A.C. ("**Copeinca**" and, with CFGI, the "**Peruvian OpCos**") as borrowers and guarantors, the lenders party thereto (the "**Club Lenders**"), and Madison Pacific Trust Limited, as successor agent (the "**Agent**"). The "**Noteholders**" are the holders of 9.75% Senior Notes Due 2019 (the "**Notes**"), evidenced by the indenture dated July 30, 2012 (the "**Indenture**") among CFGI as issuer, CFGL, as Parent Guarantor, and Delaware Trust Company as indenture trustee.

⁷ The relevant entities are Pacific Andes Enterprises (BVI) Limited ("**PAE**"), Solar Fish Trading Limited ("**Solar Fish**"), Richtown Development Limited ("**Richtown**"), Parkmond Group Limited ("**Parkmond**"), Europaco Limited ("**Europaco**"), Palanga Limited ("**Palanga**"), and Zolotaya Orda Limited ("**Zolotava**," and, with PAE, Solar Fish, Richtown, Parkmond, Europaco, and Palanga, the "**Liquidation Companies**"). The liquidators of those entities are Nicholas James Gronow, Joshua Taylor, and Ian Morton (replaced by John Ayres on June 25, 2018).

⁸ Capitalized terms not otherwise defined in this Preliminary Statement have the meanings ascribed to them in this Motion below.

controlled by the Ng family and then round-tripped them back to PAE and Europaco. Before the CFGI Liquidation Plaintiffs filed the CFGI HK Action in May 2019, certain of the Liquidation Companies—PAE, Solar Fish, Richtown, Parkmond, and Europaco (collectively, the “**Ng Liquidation Plaintiffs**,” with the CFGI Liquidation Plaintiffs, “**Liquidation Plaintiffs**”) filed a separate lawsuit in Hong Kong against members of the Ng family and their related entities (action no. HCA 688/2019 (the “**Ng HK Action**” and, with the CFGI HK Action, the “**Hong Kong Actions**”). The allegations in the Ng HK Action put the members of the Ng family and related entities at the center of the alleged trade-finance scheme.

4. In response to the Trustee’s objection to the Liquidation Claimants’ proofs of claim, two of those Claimants—PAE and Solar Fish—filed new proofs of claim in April 2019 that tried to focus on CFG Peru. They claimed for the first time that CFG Peru benefited (indirectly) from \$152 million of the trade-finance funds that supposedly were transferred through various entities and used in 2013 to finance a portion of the purchase by an acquisition vehicle (Grand Success Investment (Singapore) Private Limited (“**Grand Success**”)) of the shares of a shareholder of one of the Peruvian OpCos, Copeinca AS (the “**Copeinca Shares**”) for \$800 million. (Several months later, in a separate transaction which was financed in part by the Club Loan, Grand Success transferred the Copeinca Shares to CFGI.) The Trustee sought to expunge the new claims on the merits. But, before the Court could rule, PAE and Solar Fish withdrew the claims with prejudice.

5. While CFGI (and the Trustee) dispute the allegations in the CFGI HK Action, the reality is that the outcome of any litigation is uncertain. What is more, the CFGI Liquidation Plaintiffs have leverage against CFGI—and therefore CFG Peru, since resolution of the CFGI HK Action is essential to the resolution of CFG Peru’s Chapter 11 Case. It will take

years to obtain a decision on the merits in Hong Kong. Until then, the action's very existence hampers the sale process and alternatives like a creditor-led transaction.

6. The Trustee's goal always has been to prevent the CFGI HK Action from hindering the sale effort or a creditor-led transaction and prolonging CFG Peru's Chapter 11 Case. This dynamic caused the Trustee in December 2019 to file the Mediation Motion⁹ requesting authority to submit the CFGI HK Action to mediation. The parties commenced mediation sessions in June 2020 (having been delayed by the COVID-19 pandemic).¹⁰ Through the summer and fall, with the help of the Mediator (The Honorable Robert D. Drain), the parties exchanged various settlement proposals. On or about January 6, 2021 CFGI and the CFGI Liquidation Plaintiffs reached an agreement in principle to settle that lawsuit. Their agreement is now reflected in the Settlement Agreement, the salient terms of which include:¹¹

- dismissal of the CFGI HK Action "with consent"—which is analogous to a "with prejudice" dismissal. As a technical and procedural matter, there are no "with prejudice" dismissals under Hong Kong law;
- a single, \$12 million cash payment by CFGI to the CFGI Liquidation Plaintiffs in settlement of the claims, to be deposited initially in the client account of CFGI's Hong Kong counsel, Messrs. Tanner De Witt, to be held by Messrs. Tanner De Witt to the order and instructions of the Trustee to be

⁹ Chapter 11 Trustee's Emergency Motion For Entry Of An Order (A) Appointing A Mediator, (B) Directing Proposed Mediation Parties To Participate In Mediation, And (C) Authorizing Taking Corporate Governance Actions Necessary To Enable Non-Debtor CFG Investment S.A.C. To Participate In Mediation [ECF No. 1856] (the "**Mediation Motion**"). The Court granted the Mediation Motion on January 29, 2020 [ECF No. 1938] (the "**Mediation Order**").

¹⁰ The Mediation Order also referred to mediation a separate dispute between the Noteholders and the Club Lenders as to whether the Indenture required Copeinca to issue a guarantee with respect to the Notes (the "**Copeinca Guarantee Dispute**"). In addition, the Ng HK Action was also referred to mediation but the mediation terminated with respect to the Ng HK Action on January 6, 2021 without resolution of that issue. For the avoidance of doubt, this Motion relates only to the CFGI HK Action.

¹¹ This summary is qualified in its entirety by the provisions of the Settlement Agreement attached hereto in substantially final form as Exhibit B. In the event that there is any inconsistency between the description provided in the Motion and the actual terms of the Settlement Agreement, the Settlement Agreement shall control. Capitalized terms used but not defined in this Motion shall have the meanings ascribed to such terms in the Settlement Agreement.

given in accordance with the terms of the Settlement Agreement and specifically to be paid after the settlement is approved by this Court (and its Order becomes final), after the BVI Court approves the settlement, and after the CFGI HK Action is dismissed; and

- mutual releases of various entities and their affiliates relating to the claims asserted in the CFGI HK Action, including Protein Trading and other Direct Subsidiaries (as defined below).

7. Settlement of the CFGI HK Action terminates costly litigation that could plod on aimlessly for years. Indeed, the parties in the Hong Kong Actions have not submitted their “Defences”—which are the equivalent to “answers” to “complaints” in the United States. Nor has discovery started, or a trial date been set. This is true even though the Hong Kong Actions have been pending since May 2019. Regardless of the fact that CFGI believes it will prevail on the merits—in a jurisdiction where the “English Rule” regarding fee reimbursement applies, no less—it still will take years and significant costs to reach that result. And, the outcome of all litigation is by definition uncertain because a result can never be predicted with 100 percent certainty.

8. Equally important is the much-needed clarity with respect to the assets being sold by the Trustee in CFG Peru’s Chapter 11 Case that the settlement provides. The Peruvian OpCos overwhelmingly are the source of value in these cases. When appointing the Trustee, the Court observed CFG Peru “is the 100% direct and indirect owner of the Peruvian OpCos” and that “[t]he Debtors consist principally of holding companies and defunct, non-operating companies Whatever value they have is derived from their mostly indirect interests in the Peruvian operating companies [and they] have no prospect of rehabilitation if they cannot realize value from their interests in the Peruvian OpCos.”¹²

¹² See Memorandum Decision and Order Granting Motion for Appointment of A Chapter 11 Trustee [ECF No. 203], 2016 WL 6875903 (Bankr. S.D.N.Y.) at 2-3, 45, 47-49.

9. The Trustee is selling CFG Peru's direct and indirect stock in the Peruvian OpCos. To state the obvious, a stock-sale structure means that the Trustee must make certain representations to the purchaser about the Peruvian OpCos' liabilities and that no sale can close in the face of unresolved liabilities. Any sale to a third-party purchaser requires a quantification of all outstanding debts and a sale price sufficient to satisfy that debt. Despite a robust marketing process over the last several years, no bidder has come forward to date at a price necessary to pay off the Club Loan and Notes, let alone at a price necessary to cover the Club Loan and Notes as well as an additional \$152 million to be placed in escrow. As the Trustee has testified,¹³ bidding for the Peruvian OpCos is being chilled by a contingent, \$152-million liability that is a "bracketed" component of the price. The uncertainty surrounding this \$152-million liability also impacts negotiations concerning a creditor-led transaction because the CFGI Liquidation Plaintiffs' claim against CFGI will need to be compromised or paid.

10. Accordingly, the Settlement Agreement should be approved. That outcome will inure to the benefit of CFG Peru's and Protein Trading's estates, creditors, and other stakeholders by significantly facilitating the sale process or a creditor-led alternative transaction and a conclusion of the CFG Peru Chapter 11 Case and by securing releases from the CFGI Liquidation Plaintiffs.

BACKGROUND

11. On June 30, 2016, each of the Debtors, except Pacific Andes Resources Development Ltd. ("**PARD**"), Nouvelle Foods International Ltd. ("**Nouvelle**"), Golden Target

¹³ See [ECF No. 1856] (Brandt Decl.) ¶ 5 ("[C]oncern over a potential significant claim at Copeinca has chilled bidding in the CFG Peru Sale"); ¶ 6 ("[A]ny bidder willing to bear the risk will likely reduce its proposed purchase price to account for the inherent risk that is associated with the Hong Kong Action"); ¶ 7 ("[A] number of parties [] have expressed concerns in connection with the FTI Liquidators' long-standing actions, including multiple potential bidders in the CFG Sale process, some of whom have been unwilling to engage in the CFG Peru Sale process while those issues remain outstanding.").

Pacific Limited (**“Golden Target”**), Pacific Andes International Holdings (BVI) Limited (**“PAIH (BVI)”**), Zhonggang Fisheries Limited (**“Zhonggang”**), and the Additional Debtors (defined below) filed voluntary petitions under the Bankruptcy Code in this Court. On September 29, 2016, PARD filed its Chapter 11 bankruptcy case. On March 27, 2017, Nouvelle and Golden Target filed Chapter 11 bankruptcy cases. On April 17, 2017, PAIH (BVI) and Zhonggang filed Chapter 11 bankruptcy cases. Last, on May 2, 2017, an additional sixteen¹⁴ Debtors filed Chapter 11 bankruptcy cases (the **“Additional Debtors,”** collectively, with PARD, Nouvelle, Golden Target, PAIH (BVI), Zhonggang, and the other Debtors’ Chapter 11 cases, the **“Chapter 11 Cases”**).

12. To date, no creditors’ committee has been appointed in these Chapter 11 Cases by the Office of the United States Trustee for the Southern District of New York (the **“U.S. Trustee”**).

13. The Debtors constitute a small part of a group of companies that once collectively constituted the world’s twelfth largest fishing company (the **“Pacific Andes Group”**). The Debtors consist principally of holding companies and defunct, non-operating companies. Their value is derived largely from their indirect or direct interests in two Peruvian operating companies which are non-Debtor affiliates – the Peruvian OpCos. CFGI and Copeinca operate the Peruvian OpCos’ anchovy fishing business and together control a significant percentage of the anchovy fishing quotas fixed by the Peruvian government.

¹⁴ The Additional Debtors are: 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).

14. On November 10, 2016, the U.S. Trustee sought approval of William A. Brandt, Jr., as the Trustee of CFG Peru [Dkt. No. 218]. On that same date, the Court entered an order approving the selection of Mr. Brandt as the Trustee [Dkt. No. 219].

15. CFG Peru is the direct 100% (or close to 100%) shareholder of the following Peruvian companies: (a) CFGI, (b) Inmobiliaria Gainesville S.A.C., (c) Sustainable Pelagic Fishery S.A.C., and (d) Sustainable Fishing Resources S.A.C. (collectively, the “**100% Peruvian Subsidiaries**”). CFG Peru is also the direct 100% shareholder of China Fishery Group Limited (Hong Kong) (“**CFGL HK**”), a Hong Kong company.

16. In addition, CFG Peru owns one or more shares of the following entities: (a) J. Wiludi & Asociados Consultores en Pesca S.A.C., (b) Consorcio Vollmacht S.A.C., (c) Corporacion Pesquera Frami S.A.C., (d) Inmobiliaria y Constructora Pahk S.A.C., and (e) Inversiones Pesqueras West S.A.C. (collectively, the “**De Minimis Subsidiaries**”, and together with the 100% Peruvian Subsidiaries, the “**Direct Peruvian Subsidiaries**”). Each of the De Minimis Subsidiaries is a Peruvian company.

17. CFG Peru is also the direct 100% shareholder of Debtor Protein Trading Limited (a Samoan company, and together with the Direct Peruvian Subsidiaries and CFG HK, the “**Direct Subsidiaries**”).

18. Finally, the following entities are indirect subsidiaries of CFG Peru: (a) Copeinca AS (Norway), (b) Copeinca Internacional S.A. (Spain), (c) Copeinca, (d) PFB Fisheries B.V. (Netherlands), and (v) Macro Captales S.A. (Panama) (collectively, the “**Indirect Subsidiaries**”).

19. Various of the directors, general managers, and legal representatives of the Direct Subsidiaries and Indirect Subsidiaries are members of the Ng family or individuals associated with the Ng family (collectively, the “**Ng Subsidiary Directors**”).

JURISDICTION AND VENUE

20. The United States Bankruptcy Court for the Southern District of New York (this “**Court**”) has subject matter jurisdiction to consider this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

RELIEF REQUESTED

21. By this Motion, the Trustee seeks an order, substantially in the form attached hereto as **Exhibit A**, authorizing and approving, pursuant to Rule 9019 of the Bankruptcy Rules, the Settlement Agreement substantially in the form of the agreement attached hereto as **Exhibit B**.

22. The Trustee also requests authorization to execute, deliver, implement, and fully perform any and all obligations, instruments, documents, and papers and to take any and all actions reasonably necessary or appropriate to consummate and implement the Settlement Agreement.

23. The Trustee further requests authorization pursuant to sections 363 and 105(a) of the Bankruptcy Code to take all corporate governance actions consistent with Peruvian, Singaporean, Hong Kong, and Samoan law that he determines are desirable or necessary to: (a) enable the Direct Subsidiaries to approve of and enter into the Settlement Agreement and ancillary documents related thereto, (b) to empower the managers of the Direct Subsidiaries to take actions to implement the Settlement Agreement and any other transactions contemplated therein, including but not limited to paying the \$12 million of settlement consideration and obtaining a dismissal of the CFGI HK Action, and (c) to the extent necessary, to remove or

replace the Ng Subsidiary Directors at certain of the Direct Subsidiaries in order for those subsidiaries to enter into the Settlement Agreement.¹⁵

BASIS FOR RELIEF

A. LIQUIDATORS' INVESTIGATIVE REPORTS AND US CLAIMS

24. Starting in 2015, the Liquidators prepared certain “investigative” reports purporting to explain an alleged trade-finance scheme which were used in connection with their securing appointments from the BVI Court.¹⁶ On February 13, 2017, the Liquidators issued the Joint Liquidators' Report to Creditors (the “**February 2017 Report**”) in which they discussed the alleged trade-finance fraud. On April 13, 2017, the Liquidators issued another Joint Liquidators' Investigation Report (the “**April 2017 Report**”), which further discussed the alleged trade-finance fraud—but which for the first time asserted that the use of funds raised by way of trade-finance for the purchase of fish from Solar Fish that instead has highly likely been used to fund the acquisition of the Copeinca Shares “constitutes trade-finance fraud” on the banks involved.¹⁷ Two subsequent reports, dated October 31, 2017 (the “**October 2017**

¹⁵ The Trustee is not requesting authorization from the Court to remove or replace the Ng Subsidiary Directors at the Indirect Subsidiaries to the extent removal and replacement becomes necessary, because removal or replacement of those representatives does not require corporate governance actions at Debtor, CFG Peru.

¹⁶ See, e.g., Proof Of Claim No. 632 (¶ 1 (“In appointing the Liquidators act, the BVI Court was aware of the two reports issued by FTI Consulting (Hong Kong) Limited dated November 16, 2015 and December 18, 2015 ... on the instruction of counsel for the Hongkong And Shanghai Banking Corporation Limited, as well as two reports prepared for the BVI Court by Nicholas James Gronow, Ian Morton and Joshua Taylor as joint and provisional liquidators of PAE dated November 4, 2016 and November 17, 2017.”). In November 2016, when the Liquidators were appointed to Parkmond and PARD Trade Limited, Richtown unsuccessfully opposed the application by arguing their connection to FTI Consulting and HSBC was disabling. See 45-BVIHC-132, 133, 134 (2016) (BVI Court Decision) at 30 (“Richtown opposed the appointment of the individuals who had acted as joint provisional liquidators on the basis that as persons from FTI consulting, they would have a conflict interest in acting. The conflict was said to be between their duties as liquidator and their self-interest in seeking to justify the preliminary FTI Consulting reports to HSBC which were used, as I understand it, as evidence for the appointment of provisional liquidators in the Cayman Islands and Hong Kong [T]he individuals were professional men, and [] the objection to their appointment was ill-founded.”))

¹⁷ See ECF No. 1572-2 (April 2017 Report at pp.1-3); ECF No. 1572-5 (October 2017 Report at p. 9). See also ECF No. 1572-6 (November 2018 Report).

Report”) and November 2, 2018 (the “**November 2018 Report**,” and with the February 2017 Report, the April 2017 Report, and the October 2017 Report, the “**Liquidators’ Reports**”), also were issued.

25. Certain of the Liquidation Companies filed multiple proofs of claim in the Chapter 11 Cases against various Debtors based on the alleged “round-tripping” scheme.¹⁸ With respect to CFG Peru, the Liquidation Claimants filed three identical claims (Claim No. 632 (Solar Fish); Claim No. 635 (PAE); Claim No. 636 (Parkmond)) (the “**Original Proofs Of Claim**”).

26. On March 29, 2019, the Trustee objected to and sought to disallow the Original Proofs of Claim because they alleged nothing specific to CFG Peru.¹⁹ In response, two of the Liquidation Claimants (PAE and Solar Fish) on April 29, 2019 filed “amended claims” that contained new allegations against CFG Peru, that is, that it benefitted (albeit indirectly) from the scheme and owed damages of \$152 million.²⁰ PAE and Solar Fish tried to connect CFG Peru to the alleged fraud, claiming that \$152 million in trade-finance funds were traceable through various entities affiliated with PAE and Solar Fish (including Palanga and Zolotaya) and that those funds satisfied a portion of the \$800 million purchase price paid by Grand Success for the Copeinca Shares in 2013. Separately, in Hong Kong, on May 10, 2019, five Liquidation

¹⁸ PAE filed 41 proofs of claim; Parkmond filed 16 proofs of claim; Europaco filed 22 proofs of claim; Solar Fish filed 33 proofs of claim; Palanga filed 7 proofs of claim; Zolotaya filed 5 proofs of claim; Richtown filed 4 proofs of claim; Metro Win Inc. Limited filed 20 proofs of claim; Alatir Limited filed 23 proofs of claim; and Perun Limited filed 24 proofs of claim. A schedule of those proofs of claim is attached as **Exhibit A** to the Trustee’s reply in support of the mediation motion. **See** ECF No. 1880-1. Some of those proofs of claim have been objected to; Debtor Protein Trading Limited (Samoa) has objected to claims filed against it by PAE, Solar Fish, and Parkmond based on the allegations of trade-finance fraud on 29 March 2019. That objection, however, has been adjourned.

¹⁹ **See** ECF No. 1523.

²⁰ **See** ECF No. 1572, **Ex. 5**, **Ex. 6** (PAE (Claim No. 300062) and Solar Fish (Claim No. 300065) (collectively, the “**Amended Proofs of Claim**”), which are identical.

Companies, PAE, Solar Fish, Europaco, Palanga, and Zolotaya, i.e., the CFGI Liquidation Plaintiffs, commenced the CFGI HK Action against CFGI, which contains the very same factual allegations and legal theories as the Amended Proofs Of Claim filed against CFG Peru.

27. Responding to the Amended Proofs Of Claim, the Trustee's July 3 reply (the "**Reply**"), argued that these new claims were untimely and that leave to assert them should be denied on futility grounds because the new claims failed as a matter of law. The Reply was supported by the declaration of Mr. Allan Chun Yue Lueng, a Hong Kong law expert, which asserted that as a matter of law, claims for knowing or unconscionable receipt, dishonest assistance, or unlawful means could not stand.²¹ Before the July 18, 2019 hearing on the Trustee's objection to the Amended Proofs of Claim, however, PAE, Parkmond, and Solar Fish withdrew the Original Proofs of Claim and the Amended Proofs of Claim with prejudice.²²

B. HONG KONG ACTIONS

28. The CFGI Liquidation Plaintiffs commenced the CFGI HK Action with the writ of summons on May 10, 2019. CFGI accepted service of the writ in January 2020. Plaintiffs' Consolidated Statement of Claim dated October 5, 2020 (the "**CSOC**") contains the same allegations put forth in the proofs of claim filed against CFG Peru by the Liquidation Claimants. It maintains that Grand Success' use of \$152 million of trade-finance proceeds to acquire the Copeinca Shares it transferred to CFGI seven months later gives rise to claims for dishonest assistance and knowing receipt.

²¹ See Declaration of Allan Chun Yue Leung, dated July 2, 2019 (the "**Leung Decl.**").

²² See Stipulation And Agreed Order Withdrawing With Prejudice Claims Filed By Pacific Andes Enterprises (BVI) Limited (In Liquidation), Parkmond Group Limited (In Liquidation) And Solar Fish Trading Limited (In Liquidation) Against CFG Peru Investments Pte. Limited (Singapore) [ECF No. 1690].

29. There have been several hearings in the Hong Kong Actions. In April 2019, the Ng Liquidation Plaintiffs first submitted an ex parte application for a Mareva injunction to freeze the Ng defendants' assets in Hong Kong. After the ex parte application was denied, the Ng Liquidation Plaintiffs made an inter partes application, which the Hong Kong Court denied on June 16, 2020. On August 7, 2019, the Ng defendants applied to the Hong Kong Court seeking security for costs, arguing the Ng Liquidation Plaintiffs are in liquidation and otherwise beyond the court's reach because they are based in the British Virgin Islands and Singapore, which the Hong Kong Court granted. Separately, by way of consent, the CFGI Liquidation Plaintiffs paid HK\$3,800,00 into the Hong Kong Court as security for CFGI's costs in the CFGI HK Action pursuant to an Order made by the Hong Kong Court on August 27, 2020.

30. On January 13, 2020, the Plaintiffs applied by way of summons to consolidate the CFGI HK Action with the Ng HK Action. The matter was heard on July 29, 2020 before Master Anthony H.K. Chan, who made an order to consolidate the two actions. To date neither party has submitted its "Defence," which is tantamount to an "answer" to a complaint, which is the CSOC in the Hong Kong Actions.

**C. NEED FOR TRUSTEE TO TAKE CORPORATE GOVERNANCE ACTIONS WITH
RESPECT TO DIRECT SUBSIDIARIES' EXECUTION OF AND PERFORMANCE
UNDER SETTLEMENT AGREEMENT**

31. Under their existing powers of attorney, the general managers at the Direct Peruvian Subsidiaries may not have independent authority to approve of or enter into the Settlement Agreement and ancillary documents related thereto. Accordingly, each of the Direct Peruvian Subsidiaries may need to convene shareholder meetings to approve of and enter into the Settlement Agreement and ancillary documents, if any, related thereto and to empower their managers to take actions to implement the Settlement Agreement and any other transactions contemplated therein, including by executing and subscribing any documents.

32. CFG Peru currently owns one or more shares of each of the Direct Peruvian Subsidiaries, and the Trustee is CFG Peru's representative in its capacity as shareholder for each of the Direct Peruvian Subsidiaries. In Peru, a representative may designate a person to represent and vote the shareholder's shares at such meeting by issuing a proxy. As the Court is aware, the Trustee is often in Peru in connection with CFG Peru's Chapter 11 Case. However, the Trustee cannot be sure that he will be in Peru on the exact date the shareholder meetings will be held, particularly in light of the travel restrictions brought on by the global COVID-19 pandemic. As a result, the Trustee intends to issue proxies to the managers of each of the Direct Peruvian Subsidiaries in order for such managers to vote CFG Peru's shares in those entities at each Direct Peruvian Subsidiary's shareholder meeting in favor of approving and entering into the Settlement Agreement and any ancillary documents related thereto, and empowering the managers to implement the Settlement Agreement and any other transactions contemplated therein, including by executing and subscribing documents.

D. NEED FOR TRUSTEE TO TAKE CORPORATE GOVERNANCE ACTIONS TO REMOVE OR REPLACE NG SUBSIDIARY DIRECTORS

33. The Ng Subsidiary Directors remain as directors, general managers, and legal representatives at most of the Direct Subsidiaries and Indirect Subsidiaries. The Trustee may require the Ng Subsidiary Directors' cooperation at certain of those subsidiaries, including, but not limited to, CFGL HK and Protein Trading, in order for those subsidiaries to enter into and effectuate the Settlement Agreement. Due to the sensitivities and exigencies of resolving the CFGI HK Action and having this Settlement Agreement approved, in light of the confidentiality considerations associated with the mediation, and given that certain of the Ng Subsidiary Directors are defendants in the Ng HK Action in their personal capacities and as directors of other entities, the Trustee determined not to share the Settlement Agreement with the Ng

Subsidiary Directors in advance of filing this Motion. The Trustee has no reason to expect the Ng Subsidiary Directors will not cooperate with causing the Direct Subsidiaries and Indirect Subsidiaries to enter into the Settlement Agreement and to perform thereunder as appropriate, and the Trustee plans to work with the Ng Subsidiary Directors between the filing of this Motion and the hearing on this Motion to answer any questions they may have about the terms of the Settlement Agreement.

34. Out of an abundance of caution, to ensure that the terms of the Settlement Agreement can be effectuated promptly if approved by this Court, the Trustee is seeking Court authority to take the corporate governance actions necessary, consistent with applicable foreign laws, to remove or replace the Ng Subsidiary Directors at the Direct Subsidiaries²³ in the event they are unwilling to cooperate.

APPLICABLE AUTHORITY

A. SETTLEMENT AGREEMENT IS IN BEST INTERESTS OF CFG PERU AND PROTEIN TRADING AND SHOULD BE APPROVED

35. Bankruptcy Rule 9019(a) provides “[o]n motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement.” Fed. R. Bankr. P. 9019(a). This rule empowers bankruptcy courts to approve settlements “if they are in the best interests of the estate.” Vaughn v. Drexel Burnham Lambert Grp., Inc. (In re Drexel Burnham Lambert Grp., Inc.), 134 B.R. 499, 505 (Bankr. S.D.N.Y. 1991). The settlement need not result in the best possible outcome for the debtor, but must not “fall below the lowest point in the range of reasonableness.” Id.; accord Cosoff v. Rodman (In re W.T. Grant Co.), 699 F.2d 599, 608 (2d Cir. 1983).

²³ Removing or replacing the Ng Subsidiary Directors at the Indirect Subsidiaries does not require the Trustee to take any corporate governance actions because CFG Peru is not a shareholder of those entities, and the Trustee is not asking the Court by this Motion for any relief with respect to the Indirect Subsidiaries.

36. Compromises are “a normal part of the process of reorganization.” Protective Comm. for Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson, 390 U.S. 414, 424 (1968) (quoting Case v. L.A. Lumber Prods. Co., 308 U.S. 106, 130 (1939)). The decision to approve a particular compromise lies within the sound discretion of the bankruptcy court. See Nellis v. Shugrue, 165 B.R. 115, 123 (S.D.N.Y. 1994). The court’s discretion may be exercised “in light of the general public policy favoring settlements.” In re Hibbard Brown & Co., 217 B.R. 41, 46 (Bankr. S.D.N.Y. 1998). A proposed compromise settlement implicates the issue of whether it is “fair and equitable, and . . . in the best interest of the [debtor’s] estate.” In re Best Prods. Co., 168 B.R. 35, 50 (Bankr. S.D.N.Y. 1994) (internal citations omitted). The court must apprise itself “of all facts necessary for an intelligent and objective opinion of the probabilities of ultimate success should the claim be litigated.” Protective Comm. for Indep. Stockholders of TMT Trailer Ferry, Inc., 390 U.S. at 424.

37. Courts typically consider the following factors in determining whether a settlement should be approved: (i) the probability of success in litigation, with due consideration for the uncertainty in fact and law; (ii) the difficulties of collecting any litigated judgment; (iii) the complexity and likely duration of the litigation and any attendant expense, inconvenience, and delay; (iv) the proportion of creditors who do not object to, or who affirmatively support, the proposed settlement; (v) the competence and experience of counsel who support the settlement; (vi) the relative benefits to be received by members of any affected class; (vii) the extent to which the settlement is truly the product of arm’s-length bargaining and not the product of fraud or collusion; and (viii) the debtor’s informed judgment that the settlement is fair and reasonable. See In re Ashford Hotels, Ltd., 226 B.R. 797, 802 (Bankr. S.D.N.Y. 1998); In re Best Prods. Co., 168 B.R. at 50.

38. While a court must evaluate all “factors relevant to a full and fair assessment of the wisdom of the proposed compromise,” Protective Comm. for Indep. Stockholders of TMT Trailer Ferry, Inc., 390 U.S. at 424, a court need not conduct a “mini trial” of the merits of the claims being settled or conduct a full independent investigation. In re Drexel Burnham Lambert Grp. Inc., 134 B.R. at 505.

39. Here, it is clear that the Settlement Agreement will benefit CFG Peru and Protein Trading as well as their respective estates and creditors.

40. **First**, the outcome of any litigation is uncertain. The Trustee believes CFGI will prevail with respect to the claims asserted against CFGI for knowing receipt and dishonest assistance, including, without limitation, that no fraud has been (or can be) alleged with respect to CFGI; that the claims are barred by the conduct of PAE and Europaco; that the facts do not support a claim for breach of trust or fiduciary duty; that the trade finance proceeds that supposedly were obtained through a fraudulent scheme cannot be traced or otherwise connected to CFGI; that proceeds from the Club Loan were used to finance the acquisition of the Copeinca Shares; and that certain regulatory authorities have concluded their investigations into the alleged financing scheme and concluded those investigations without taking any action. The CFGI Liquidation Plaintiffs argue otherwise and contend their legal theories support claims against CFGI even if it was not directly involved in the procurement of funds through any alleged trade-finance fraud. The litigation will be hard-fought and involve complex issues concerning financing transactions that transpired nearly a decade ago, between 2010 and 2013.

41. **Second**, there can be no dispute that absent a settlement considerable expense will be incurred, thus destroying estate value. Most likely, the rules of procedure in Hong Kong that are analogous to a U.S.-style “motion to dismiss” or “motion for summary judgment,” e.g., “proceedings for striking out,” “dismissal of action,” and “summary judgment”

are inappropriate for this case, albeit for reasons unrelated to the strength of the merits. That means without a settlement, the case will proceed through discovery and ultimately to trial. Given the progress to date in a case that has been pending since May 2019, the litigation surely will proceed for years before a trial date can be set. This has become even more evident since the Hong Kong Court consolidated the Ng HK Action and the CFGI HK Action—the joinder will cause more delay.

42. **Third**, while the Trustee will vigorously defend the CFGI HK Action and believes CFGI will prevail and receive its fees and costs, he does not have the luxury of time and instead needs to remove the cloud the CFGI HK Action casts over the sale process and pursuit of a creditor-led alternative. Even more so than the Ng HK Action, the CFGI HK Action must be resolved to facilitate any such transactions.

43. For CFG Peru, resolving the CFGI HK Action is a crucial step towards facilitating a value-maximizing exit from its Chapter 11 Case. A sale or creditor-led alternative would enable the Trustee to satisfy or compromise the remaining material third-party debt at the Peruvian OpCos, which are the Notes and Club Loan.

44. For Protein Trading, other than proofs of claim filed by the Liquidators, Protein Trading's only third-party debt according to its schedules of assets and liabilities and proofs of claims filed against it are the Notes.²⁴ Protein Trading has no material assets of its

²⁴ According to a recent filing by the other Debtors, Protein Trading may have been a borrower under a US\$73,000,000 facility letter dated 13 January 2016 executed between, inter alia, Pacific Andes Enterprises (BVI) Limited, Pacos Processing Limited, Europaco, Premium Choice Group Limited and Protein Trading Limited as borrowers, and CITIC as lender (the "CITIC Facility Letter"). See *First Supplement to Motion of Pacific Andes International Holdings Limited (Bermuda) and Pacific Andes International Holdings (BVI) Limited, Pursuant to Bankruptcy Code Sections 105, 363 and 502, and Bankruptcy Rules 2002, 3001(e), 3007, 4001, 6004, 9014 and 9019, (I) to Approve Compromise Among Movants, Certain Creditors and Investors, (II) to Authorize Certain Corporate Governance Actions in Furtherance of Compromise, (III) to Approve the Compromise and Allowance of Certain Claims Related to the Proposed Transaction, and (IV) to Grant Related Relief* [ECF No. 2431]. However, the CITIC Facility Letter was not listed on Protein Trading's schedules, and
(cont'd)

own. In order for the Notes to recover, then, whether through a sale or creditor-led transaction, the Trustee was focused on ensuring that the claims asserted by the Liquidators that were the subject of the CFGI HK litigation could not then be asserted against Protein Trading and for Protein Trading to then seek contribution on account of those claims from CFGI, thereby potentially continuing to cloud the sale or creditor-led transaction. As a result, the Trustee negotiated a release of Protein Trading by the entities controlled by the Liquidators. The Liquidators in turn required a mutual release of their entities, which necessitates Protein Trading being a party to the Settlement Agreement. Given that the Settlement Agreement will help pave the way for recoveries by Protein Trading's only third-party creditors other than the Liquidators, i.e., the Notes, and the mutual releases were a critical part of that Settlement Agreement, this Settlement Agreement is in the best interests of Protein Trading, its estate, and its creditors.

B. TAKING CORPORATE GOVERNANCE ACTIONS WITH RESPECT TO SETTLEMENT AGREEMENT—INCLUDING REMOVING OR REPLACING NG SUBSIDIARY DIRECTORS IF NECESSARY, IS A PROPER EXERCISE OF TRUSTEE'S BUSINESS JUDGMENT

45. The Trustee seeks authorization to take any corporate governance actions consistent with Peruvian, Singaporean, Samoan, and Hong Kong law that he determines are desirable or necessary to enable the Direct Subsidiaries to approve of and enter into the Settlement Agreement and other ancillary documents related thereto, and to empower their managers to take actions to implement the Settlement Agreement and other transactions contemplated therein, including by executing and subscribing documents. The Trustee further seeks authorization to take any corporate governance actions consistent with Peruvian, Singaporean, Samoan, and Hong Kong law that he determines are desirable or necessary, to the

(cont'd from previous page)

CITIC did not file a proof of claim against Protein Trading prior to the bar date related to the CITIC Facility Letter.

extent necessary, to remove or replace the Ng Subsidiary Directors at the Direct Subsidiaries in order for those subsidiaries to enter into the Settlement Agreement.

46. The Trustee submits that application of the section 363(b) standard for use of property of the estate outside of the ordinary course of a debtor's business is met here. Section 363(b)(1) of the Bankruptcy Code provides, in relevant part: "[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate."

47. CFG Peru's shares in each of the Direct Subsidiaries are property of the bankruptcy estate. See 11 U.S.C. §541(a)(1) ("[The] estate is comprised of all the following property, wherever located and by whomever held . . . all legal or equitable interests of the debtor in property as of the commencement of the case."). Issuing proxies to vote CFG Peru's shares in each of the Direct Subsidiaries may be considered use of property of the estate outside the ordinary course of business. Courts have found that "'use' [in section 363] denotes the act of using, and the exercise of voting rights is one of the uses to which [stock] could be put," and have allowed debtors to vote their shares under section 363 to effectuate transactions. See In re Consolidated Auto Recyclers, Inc., 123 B.R. 130, 140 (D. Maine 1991) (holding that the exercise of voting rights is one of the uses to which stock could be put); see also In re Modanlo, 412 B.R. 715, 731 (Bankr. D. Md. 2006) (recognizing that "[m]ost section 363(b)(1) motions involve use of tangible property, but property of the estate includes intangible property as well, such as stockholder equity rights and voting rights" and authorizing chapter 11 trustee to vote the debtor's equity interests in a subsidiary to call a shareholder meeting), subsequently aff'd, 266 F. App'x 272 (4th Cir. 2008); In re SunEdison, Inc., Case No. 16-10992 (SMB) (Bankr. S.D.N.Y. June 7, 2017) [Dkt. No. 3294] (authorizing debtors to vote their shares under section 363 to enter into certain merger support agreements); In re Savient Pharms., Inc., Case No. 13-12680 (MFW)

(Bankr. D. Del. Nov. 4, 2013) [Dkt. No. 109] (authorizing debtors to take corporate actions, including voting stock and passing shareholder resolutions, to dissolve foreign non-debtor subsidiaries under section 363).²⁵

48. This Court's power under section 363 is supplemented by section 105(a), which provides in relevant part: "[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." As set forth below, the Trustee submits that he has satisfied the requirements of sections 105 and 363 as those sections have been construed by courts.

49. In particular, use, sale, or lease of property of the estate, other than in the ordinary course of business, is authorized when there is an "articulated business justification" for the action to be taken. See Fulton State Bank v. Schipper (In re Schipper), 933 F.2d 513, 515 (7th Cir. 1991) (citation omitted); accord Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.), 722 F.2d 1063, 1070-71 (2d Cir. 1983). When a valid business justification exists, the law vests the debtor's decision to use property out of the ordinary course of business with a strong presumption that "in making a business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the company." Official Comm. of Subordinated Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc.), 147 B.R. 650, 656 (S.D.N.Y. 1992) (citation omitted).

50. The Trustee has a clear business justification for taking corporate governance actions (including issuing proxies to vote CFG Peru's shares in the Direct Subsidiaries) to enable the Direct Subsidiaries to approve and enter into the Settlement

²⁵ Because of the voluminous nature of the orders cited herein, they are not attached to this Motion. Copies of these orders, however, are available upon request.

Agreement and ancillary documents related thereto, and to empower their managers, as necessary, to take actions to implement the Settlement Agreement and any other transactions contemplated therein, including by executing and subscribing documents. The Settlement Agreement will facilitate the sale and creditor-led transaction process, remove uncertainty around CFGI, and assist in CFG Peru's eventual exit from its Chapter 11 Case. For these same reasons, the Trustee is similarly justified in taking corporate governance actions to remove or replace the Ng Directors at the Direct Subsidiaries, to the extent necessary, in the event that the Ng Subsidiary Directors do not voluntarily cause the Direct Subsidiaries to enter into the Settlement Agreement.

51. Courts have entered orders authorizing debtors to take corporate governance actions to cause non-debtor affiliates to take actions for the benefit of a debtor's estate. See, e.g., In re Abeinsa Holding Inc., Case No. 16-10790 (KJC) (Bankr. D. Del. May 25 2016) [Dkt. No. 280] (authorizing debtor to take any and all actions reasonably necessary to sell assets of non-debtor subsidiaries); In re Haggen Holdings, LLC, Case No. 15-11874 (KG) (Bankr. D. Del. Apr. 26, 2016) [Dkt. No. 1828] (authorizing debtor to take corporate actions that are desirable or necessary to monetize assets of non-debtor affiliates); In re Variant Holding Co., Case No. 14-12021 (BLS) (Bankr. D. Del. June 5, 2015) [Dkt. No. 381] (authorizing debtor to take all necessary actions to sell assets of non-debtor subsidiaries pursuant to purchase agreement); In re Savient Pharms., Inc., Case No. 13-12680 (MFW) (Bankr. D. Del. Nov. 4, 2013) [Dkt. No. 109] (authorizing debtors to take corporate actions to dissolve foreign non-debtor subsidiaries); In re Arcapita Bank B.S.C.(c), Case No. 12-11076 (SHL) (Bankr. S.D.N.Y. Dec. 18, 2012) [Dkt. No. 726] (authorizing debtor to grant consents and approvals in connection with sale by non-debtor subsidiary pursuant to purchase agreement notwithstanding the fact that the seller is not a debtor and not subject to the court's jurisdiction); In re Tribune Company, Case

No. 08-13141 (KJC) (Bankr. D. Del. Feb. 25, 2011) [Dkt. No. 8150] (authorizing debtor to take any and all necessary actions to cause non-debtor affiliate to make capital contribution in another entity); In re Calpine Corp., Case No. 05-60200 (BRL) (Bankr. S.D.N.Y. Mar. 1, 2006) [Dkt. No. 926] (authorizing the debtors to take all actions necessary to effectuate sale procedures for non-debtor subsidiaries and approving same).²⁶

WAIVER OF STAY UNDER BANKRUPTCY RULE 6004(h)

52. The Trustee also requests that the Court waive the stay imposed by Bankruptcy Rule 6004(h), which provides that “[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise.” Fed. R. Bankr. P. 6004(h). As described above, the relief that the Trustee seeks will, inter alia, facilitate either a sale or creditor-led alternative transaction that can pave the way for CFG Peru to exit its Chapter 11 Case. Accordingly, the Chapter 11 Trustee respectfully requests that the Court waive the fourteen-day stay imposed by Bankruptcy Rule 6004(h).

NOTICE

53. Notice of this Motion shall be given to (a) the U.S. Trustee; (b) creditors holding the fifty largest claims as set forth in the consolidated list filed with the Debtors’ petitions; (c) U.S. counsel to Standard Chartered Bank (Hong Kong) Limited; (d) U.S. counsel to Coöperatieve Rabobank, U.A.; (e) U.S. counsel to the ad hoc committee of certain entities that hold, or act as investment manager of or advisor to certain funds, controlled accounts, and/or other entities that hold or are beneficial owners of the Notes and the Club Loan; (f) U.S. counsel

²⁶ Because of the voluminous nature of the orders cited herein, they are not attached to this Motion. Copies of these orders, however, are available upon request.

to Bank of America N.A.; (g) U.S. counsel to Malayan Banking Berhad, Hong Kong Branch; (h) U.S. counsel to Friedrich von Kaltenborn-Stachau, the insolvency administrator for the Pickenpack companies; (i) U.S. counsel to the Indenture Trustee; (j) U.S. counsel to the other Debtors; (k) the United States Attorney's Office for the Southern District of New York; (l) the Internal Revenue Service; (m) the United States Securities and Exchange Commission; (n) Jessie Ng on behalf of the other Debtors; (o) U.S. counsel to the Liquidators; (p) counsel to certain holders of the Notes and Club Loan, Kasowitz Benson Torres LLP; (q) counsel for Madison Pacific Trust Limited, Hogan Lovells US LLP; and (r) any party that has requested notice pursuant to Bankruptcy Rule 2002. A copy of this Motion is also available on the Court's website. The Trustee submits that no other or further notice need be provided.

NO PRIOR REQUEST

54. No previous request for the relief sought herein has been made to this Court or any other court.


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CONCLUSION

WHEREFORE, for the foregoing reasons, the Trustee respectfully requests that the Court enter an order in the form attached hereto as **Exhibit A**, granting the relief requested in the Motion, approving the Settlement Agreement substantially in the form of the agreement attached hereto as **Exhibit B**, and granting such other and further relief as may be just and proper.

QUINN EMANUEL URQUHART & SULLIVAN LLP

Dated: New York, New York
February 19, 2021

By: 
James C. Tecce
51 Madison Avenue, 22nd Floor
New York, New York 10010

*Counsel for William A. Brandt, Jr., Chapter
11 Trustee for CFG Peru Investments Pte.
Ltd. (Singapore)*

EXHIBIT A

Proposed Form of Order

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

In re:	:	Chapter 11
	:	
CHINA FISHERY GROUP LIMITED (CAYMAN)	:	Case No. 16-11895 (JLG)
<i>et al.,</i>	:	
Debtors.¹	:	(Jointly Administered)
	:	

In re:	:	Chapter 11
	:	
CFG Peru Investments Pte. Limited (Singapore),	:	Case No. 16-11914 (JLG)
Debtor.	:	
	:	(Jointly Administered)

**ORDER GRANTING MOTION OF CHAPTER 11 TRUSTEE AND CFG INVESTMENT
S.A.C. PURSUANT TO 11 U.S.C. §§ 105(A) AND 363 AND FED. R. BANKR. P. 9019 FOR
ORDER (I) APPROVING SETTLEMENT AGREEMENT RESOLVING HONG KONG
ACTION WITH CERTAIN LIQUIDATION COMPANIES HCA 836/2019, (II)
AUTHORIZING CORPORATE GOVERNANCE ACTIONS, AND (III) GRANTING
RELATED RELIEF**

¹ The Debtors 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), CFGL (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. Limited (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).

Upon the motion (the “**Motion**”)² of William A. Brandt, Jr., the Trustee of CFG Peru, pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) and sections 363 and 105(a) of chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”) for (i) approval of the Settlement Agreement with the CFGI Liquidation Plaintiffs resolving the CFGI HK Action; (ii) authorization to take all corporate governance actions, consistent with Peruvian, Singaporean, Hong Kong, and Samoan law, desirable or necessary to implement the Settlement Agreement and other transactions contemplated under the Settlement Agreement, including but not limited to voting stock, passing shareholders’ resolutions, issuing proxies directing managers to execute any necessary documentation and directing and authorizing the Direct Subsidiaries to approve of and enter into the Settlement Agreement and ancillary documents related thereto, and to empower their managers to take actions to implement the Settlement Agreement and any other transactions contemplated therein, including by executing and subscribing documents, as more fully set forth in the Motion, and (iii) authorization to take all corporate governance actions consistent with Peruvian, Singaporean, Samoan, and Hong Kong law to remove or replace the Ng Subsidiary Directors at the Direct Subsidiaries, if necessary; and this Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and notice of the Motion having been given as provided in the Motion and such notice having been adequate and appropriate under the circumstances; and it appearing that no other or further notice

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

need be provided; and this Court having held a hearing to consider the relief requested in the Motion (the “**Hearing**”), the record of which is incorporated by reference herein; and upon the record of the Hearing before this Court; and this Court having found and determined that the relief sought in the Motion is in the best interests of CFG Peru and Protein Trading and their estates, creditors, and all parties in interest, and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.
2. Pursuant to Bankruptcy Rule 9019, the Settlement Agreement attached to the Motion as Exhibit B is approved.
3. The Trustee is authorized, but not directed, to (i) execute, deliver, implement, and fully perform any and all obligations, instruments, documents, and papers and to take any and all actions reasonably necessary or appropriate to consummate and implement the Settlement Agreement; and (ii) take all corporate governance actions consistent with Peruvian, Singaporean, Hong Kong and Samoan law that he determines are desirable or necessary to enable each of the Direct Subsidiaries to approve and enter into the Settlement Agreement and ancillary documents related thereto, and to empower their managers to take actions to implement the Settlement Agreement and any other transactions contemplated therein, including but not limited to voting stock, passing shareholders’ resolutions, issuing proxies, directing managers to execute or subscribe any necessary documentation, and paying taxes.
4. The Trustee is authorized, but not directed to take all corporate governance actions consistent with Peruvian, Singaporean, Hong Kong, and Samoan law that he determines are desirable or necessary to remove or replace Ng Subsidiary Directors at each of the Direct

Subsidiaries, including, but not limited to voting stock, passing shareholders' resolutions, issuing proxies, and directing managers to execute or subscribe any necessary documentation.

5. Notwithstanding Bankruptcy Rule 6004(h), this Order shall be effective and enforceable immediately upon entry hereof.

6. This Court shall retain exclusive jurisdiction with respect to all matters arising from or related to the implementation and/or interpretation of this Order.

Dated: _____, 2021
New York, New York

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

EXHIBIT B

Settlement Agreement

Draft February 19, 2021

SETTLEMENT AGREEMENT

DATED _____ 2021

BETWEEN

THE COMPANIES SET OUT IN SCHEDULE 1 HERETO

AND

THE LIQUIDATORS

AND

THE COMPANIES SET OUT IN SCHEDULE 2 HERETO

AND

**WILLIAM A. BRANDT, JR., IN HIS CAPACITY AS THE CHAPTER 11 TRUSTEE OF
CFG PERU INVESTMENTS PTE. LIMITED (SINGAPORE)**

Draft February 19, 2021

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THE PARTIES

This settlement agreement and release is entered into the day of [***], by and among the following entities (the "**Parties**");

- (1) the companies set out in Schedule 1 of this Agreement ("**Liquidator Controlled Companies**");
- (2) the Liquidators;
- (3) the companies set out in Schedule 2 of this Agreement ("**Trustee Controlled Companies**"); and
- (4) William A., Brandt, Jr., in his capacity as the Chapter 11 Trustee (the "**Trustee**") of CFG Peru Investments Pte. Limited (Singapore) ("**CFG Peru**").

Each of the above are hereinafter referred to individually as a "**Party**" and collectively as the "**Parties**".

BACKGROUND

- (A) On various dates in 2016 and 2017, the BVI Court and the High Court of Hong Kong (as applicable) made orders for the appointment of joint and several liquidators in respect of the Liquidation Companies. The Liquidator Controlled Companies which are not Liquidation Companies are subsidiaries of the Liquidation Companies under the control of the Liquidators.
- (B) On 30 June 2016, China Fishery Group Limited and certain of its affiliates including CFG Peru commenced voluntary cases under chapter 11 of title 11 of the United States Code in the Bankruptcy Court. On 10 November 2016, the Bankruptcy Court entered an order approving the appointment of the Trustee as the Chapter 11 Trustee for CFG Peru.
- (C) On 18 April 2019, Pacific Andes Enterprises (BVI) Limited (in liquidation), Solar Fish Trading Limited (in liquidation), Richtown Development Limited (in liquidation), Parkmond Group Limited (in liquidation) and Europaco Limited (in liquidation) (together as "**688 Plaintiffs**"), commenced court proceedings in the High Court of Hong Kong (case number HCA 688/2019) against certain Ng family members and companies controlled by the Ng family, regarding claims arising out of and in relation to an alleged trade finance fraud (the "**HCA 688 Proceedings**").
- (D) On 10 May 2019, Pacific Andes Enterprises (BVI) Limited (in liquidation) ("**PAE**"), Solar Fish Trading Limited (in liquidation), Europaco Limited (in liquidation) ("**Europaco**"), Palanga Limited (in liquidation) and Zolotaya Orda Limited (in liquidation) (together as "**836 Plaintiffs**") commenced court proceedings in the High Court of Hong Kong (case number HCA 836/2019) against CFG Investment S.A.C. ("**CFG I**"), regarding claims arising out of and in relation to the sum of at least US\$152,000,000 paid to Grand Success Investment (Singapore) Pte. Limited ("**Grand Success**"), a subsidiary of China Fishery Group Limited for the acquisition of 100% shareholding in Copeinca AS on around 30 August 2013 (the "**HCA 836**").

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Proceedings"). The shares of Copeinca AS were later transferred to CFGI. CFG Peru is the parent company holding 99.9% of the issued shares of and has control over CFGI.

- (E) On 29 July 2020, the HCA 688 Proceedings and HCA 836 Proceedings were ordered by the High Court of Hong Kong to be consolidated (the "**Consolidated Proceedings**"). The 688 Plaintiffs and 836 Plaintiffs are collectively referred to as the "**Plaintiffs**".
- (F) The underlying dispute of the Consolidated Proceedings as against CFGI (the "**Dispute**") relates to the acquisition of the shares in Copeinca AS by Grand Success in August 2013 (the "**Acquisition**"). It is alleged by the Plaintiffs that US\$152,000,000 of the consideration paid for the Acquisition belonged to PAE and Europaco, and could be ultimately traced to an alleged trade finance fraud allegedly committed by the defendants in the HCA 688 Proceedings. The Plaintiffs thus alleged that CFGI held a part of the shares in Copeinca AS, which were traceable to the US\$152,000,000, on constructive trust for PAE and/or Europaco. The Plaintiffs further alleged that CFGI knew about the trade finance fraud and was also liable for dishonest assistance and knowing receipt.
- (G) Subject to the terms hereof, the Parties have settled their differences and have agreed terms for the full and final settlement of the Consolidated Proceedings insofar as CFGI is concerned and the Dispute and record those terms of settlement, on a binding basis, in this agreement ("**Agreement**").
- (H) Following the hearing on [16 March 2021], the Bankruptcy Court in the chapter 11 cases In re China Fishery Group Limited (Cayman), et al., No. 16-11895 (JLG) (Jointly Administered) (Bankr. S.D.N.Y.) made a final, non-appealable Order (the "**Final Bankruptcy Court Order**") granting the motion filed by the Trustee on [19 February 2021] approving the settlement reflected in this Agreement and authorising related corporate governance actions to consummate the settlement including but not limited to the ability to replace directors, if necessary, at the Trustee Controlled Entities.

1. Definitions and interpretation

- 1.1 In this Agreement, unless the context otherwise requires, the following words and expressions have the following meanings:

Business Day: means a day (other than a Saturday or a Sunday) on which banks are open for general business in Hong Kong, Singapore and the British Virgin Islands.

Bankruptcy Court: means the United States Bankruptcy Court for the Southern District of New York.

BVI Court: means the Eastern Caribbean Supreme Court in the High Court of Justice, British Virgin Islands.

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Claims: means all claims, rights, demands, set-offs, assertions, allegations, causes of action, controversies, proceedings, losses, damages, injuries, legal fees, expert fees, costs, expenses, debts, liabilities, judgments or remedies of any kind or nature whatsoever, in any jurisdiction before a court of law, arbitral body, administrative agency or commission, or any other adjudicative body, and whether or not presently known to the Parties or to the law, and whether in law or equity, that it ever had, may have or hereafter can, shall or may have against any of the Parties arising out of or connected with:

- a) the Acquisition as well as any claims stemming from the money flows relating to the Acquisition;
- b) the Consolidated Proceedings insofar as CFGI is concerned; and
- c) the Dispute.

For the avoidance of doubt, the definition of Claims in so far as it relates to Protein Trading Limited does not include other separate claims relating to the trade finance fraud. For the further avoidance of doubt, the definition of Claims does not include any rights the Trustee or Trustee Controlled Companies may have to assert a claim or claims against any Liquidator Controlled Entities for refunds owed on account of the termination of certain long-term supply agreements between China Fisheries International Limited, on the one hand, and Alatir Ltd. and Perun Ltd., on the other hand, which refunds are required to be paid to the lenders under that certain \$650 million facility agreement, dated March 20, 2014, by and among CFGI, Copeinca, and China Fisheries International Limited, as borrowers and guarantors, and Madison Pacific Trust Limited, as the agent.

Companies Ordinance: means the Companies Ordinance (Cap. 622 of the law of Hong Kong).

Completion: has the meaning in clause 2.2.

Discontinuance Consent Summons: means the Consent Summons in the form in Schedule 3.

Discontinuance Order: means the Order to be made by the Hong Kong Court pursuant to the Discontinuance Consent Summons.

Holding Company: has the meaning in the Companies Ordinance.

Hong Kong: means the Hong Kong Special Administrative Region of the People's Republic of China.

Hong Kong Court: means the Court of First Instance of the High Court of Hong Kong

Liquidation Companies: means Alatir Limited (in liquidation), Europaco Limited (in liquidation), Metro Win Inc. Limited (in liquidation), Pacific Andes Enterprises (BVI)

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Limited (in liquidation), Palanga Limited (in liquidation), PARD Trade Limited (in liquidation), Parkmond Group Limited (in liquidation), Perun Limited (in liquidation), Richtown Development Limited (in liquidation), Solar Fish Trading Limited (in liquidation) and Zolotaya Orda Limited (in liquidation).

Liquidators: means Messrs. Nicholas James Gronow, John David Ayres and John Howard Batchelor, who are variously the joint and several liquidators of the Liquidation Companies at the date of this Agreement as set out in Schedule 1 of this Agreement.

Liquidators' Representatives: means any advisers and/or agents of the Liquidators, the firms by which the Liquidators are employed or of which they are members, and those firms' members, employees, advisers and/or agents.

Longstop Date: means [June 1] 2021, or such later date as Messrs. Tanner De Witt, the Liquidators and the Trustee may agree in writing.

Subsidiaries: has the meaning in the Companies Ordinance.

Trustee: means William A. Brandt, Jr in his capacity as the Chapter 11 Trustee of CFG Peru.

Trustee's Representatives: means any advisers and/or agents of the Trustee, the firms by which the Trustee is employed or of which they are members, and those firms' members, employees, advisers and/or agents.

- 1.2 Clause and schedule headings do not affect the interpretation of this Agreement.
- 1.3 A person includes a corporate and an unincorporated body.
- 1.4 Words in the singular include the plural and vice versa.
- 1.5 A reference to one gender includes a reference to all genders.
- 1.6 A reference to a particular statute, statutory provision or subordinate legislation is a reference to it as it is in force from time to time taking account of any amendment or re-enactment and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts and subordinate legislation for the time being in force made under it.
- 1.7 References to clauses and schedules are to the clauses and schedules of this Agreement; references to paragraphs are to paragraphs of the relevant schedule.
- 1.8 The Schedules form part of this Agreement and references to this Agreement include this Agreement and the Schedules as amended or varied in accordance with its terms.
- 1.9 References to time in this Agreement are to Hong Kong time.

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2. Completion

2.1 The Parties shall co-operate fully in all actions necessary to procure the satisfaction or waiver in writing of the following conditions as soon as practicable but in any event no later than the Longstop Date:

- (a) the Liquidators and the Liquidator Controlled Companies shall deliver or cause to be delivered to the Trustee and the Trustee Controlled Companies a certified true copy of an order of the BVI Court for sanction or approval of each Liquidation Company's entry into this Agreement;
- (b) the Bankruptcy Court shall have entered the Final Bankruptcy Court Order in a form and substance acceptable to the Trustee and the Liquidators;
- (c) the Liquidators shall deliver the signed Discontinuance Consent Summons to Messrs. Tanner De Witt;
- (d) the Trustee and the Trustee Controlled Companies shall procure a payment to be made in the total sum of US\$12,000,000 ("**Settlement Sum**") by way of bank transfer to the client account of Messrs. Tanner De Witt to be held by Messrs. Tanner De Witt to the order and instructions of the Trustee to be given in accordance with the terms of this Agreement; and
- (e) upon receipt of evidence reasonably satisfactory to the Liquidators that the Settlement Sum has been deposited into the client account of Messrs. Tanner De Witt in accordance with the terms of clause 2.1(d), the Liquidators shall authorise Messrs. Tanner De Witt to file the jointly signed Discontinuance Consent Summons with the Hong Kong Court.

2.2 Completion shall take place when the following shall occur:

- (a) the Discontinuance Order made by the Hong Kong Court becomes final and non-appealable;
- (b) the Trustee instructs Messrs. Tanner De Witt to pay the Settlement to the Liquidators (the "**Liquidators' Account**"); and

Account name	FTI Consulting (Singapore) Pte Ltd - Clients' Account
Account number	0003-007467-01-3-022 (USD C/A)
Bank	DBS Bank Limited
SWIFT	DBSSSGSG
Bank Location	Singapore

- (c) the Liquidators receive the Settlement Sum in the Liquidators' Account which shall be a complete discharge to the Trustee and Trustee Controlled Companies who shall not be obliged to enquire as to the distribution thereof.

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- 2.3 For the avoidance of doubt, upon the Discontinuance Order becoming final and non-appealable the Trustee and the Trustee Controlled Companies shall have an obligation to pay to the Liquidators the Settlement Sum promptly and shall instruct Messrs. Tanner De Witt to pay the Settlement Sum to the Liquidators' Account.
- 2.4 To facilitate the implementation of this Agreement:
- (a) Each Party undertakes and agrees not to oppose any application by any other Party to the Bankruptcy Court or the BVI Court seeking sanction or approval of the terms of this Agreement; and
 - (b) The Parties shall co-operate fully in all actions necessary to procure the satisfaction of the steps stated in clauses 2.1 and 2.2 above including, but not limited to, the provision by all Parties of all information reasonably necessary to make any notification or filing or as requested by any relevant court or authority, keeping all Parties informed of the progress of any notification or filing and providing such assistance as may reasonably be required.

3. Discontinuance of the Proceedings

- 3.1 The Parties shall take or procure their solicitors to take all necessary steps including but not limited to (a) agreeing to an extension of time for CFGI to file and serve its Defence and/or Counterclaim in the Consolidated Proceedings to the Longstop Date (or such other date as Liquidators and the Trustee may agree in writing) and for the avoidance of doubt this shall include cooperating fully in seeking an appropriate order to this effect in the Hong Kong Court; and (b) subject to clause 2 above, the signing and filing of the Discontinuance Consent Summons to obtain a Discontinuance Order from the Hong Kong Court to discontinue the Consolidated Proceedings against CFGI with no order as to costs.
- 3.2 For the avoidance of doubt, the discontinuance of the Consolidated Proceedings as against CFGI is without prejudice to the existing Consolidated Proceedings as against any party to the Consolidated Proceedings other than CFGI, including without limitation the original defendants to the HCA 688 Proceedings.

4. Mutual Releases

With effect from Completion and the receipt of the Settlement Sum in full in accordance with clause 2.2(c), the Liquidator Controlled Companies and the Liquidators on the one hand hereby irrevocably and unconditionally fully and forever release and discharge all Claims against the Trustee Controlled Companies and the Trustee on the other; and the Trustee Controlled Companies and the Trustee on the one hand hereby irrevocably and unconditionally fully and forever release and discharge all Claims against the Liquidator Controlled Companies and the Liquidators on the other (such mutually released claims, the "**Released Claims**"). For the avoidance of doubt, the Released Claims shall not include any claims against the original defendants to the HCA 688 Proceedings.

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5. Agreement not to Sue

- 5.1 Subject to clause 5.2, the Trustee Controlled Companies and the Trustee agree not to sue, commence, voluntarily aid in any way, prosecute or cause to be commenced or prosecuted any action, suit or other proceeding concerning the Released Claims against any of the Liquidator Controlled Companies or Liquidators, in this jurisdiction or any other; and the Liquidator Controlled Companies and the Liquidators agree not to sue, commence, voluntarily aid in any way, prosecute or cause to be commenced or prosecuted any action, suit or other proceeding concerning the Released Claims against any of the Trustee Controlled Companies or the Trustee, in this jurisdiction or any other.
- 5.2 Clauses 4 and 5.1 shall not apply to, and the Released Claims shall not include, any claims in respect of any breach of this Agreement.

6. Further Assurances

Each Party agrees to perform (or procure the performance of) all further acts and things within its control, and execute and deliver (or procure the execution and delivery of) all such further documents, as may be required by applicable laws or as may be necessary or reasonably desirable to implement and/or give full effect to this Agreement or the transactions contemplated by this Agreement.

7. Termination

- 7.1 This Agreement shall terminate:
- (a) automatically on the expiry of the Longstop Date if the conditions in clause 2.1 have not been satisfied by then unless otherwise agreed by the Liquidators and the Trustee in writing; or
 - (b) at the election of either the Liquidator Controlled Companies or the Trustee, if the BVI Court refuses to grant sanction or approval of any Liquidation Company's entry into this Agreement.
- 7.2 Upon any termination in accordance with clause 7.1:
- (a) each Party shall be under no further obligations to each other Party, provided that termination of this Agreement shall be without prejudice to any rights or liabilities that have accrued under this Agreement, and clauses [1, 11, 12, 15 and 16] which shall continue to have effect;
 - (b) to the extent that the condition in clause 2.1(c) has been satisfied, the signed Discontinuance Consent Summons shall be returned to the Liquidators and the Liquidator Controlled Companies; and
 - (c) to the extent that the condition in clause 2.1(d) has been satisfied, the Settlement Sum shall be returned to the Trustee and the Trustee Controlled Companies.

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8. Costs

- 8.1 The Parties shall each bear their own legal costs in relation to the Dispute and this Agreement.
- 8.2 The payment of security for costs into the Hong Kong Court by the Plaintiffs on 31 August 2020 pursuant to the Order of Master Roy Yu dated 27 August 2020 in the sum of HK\$3,800,000 shall be paid out of Court to the Plaintiffs pursuant to the terms of the Discontinuance Consent Summons. This clause 8 supersedes and overrides any and all previous agreements between the Parties and any court order, from any jurisdiction, regarding the legal costs in relation to the Dispute and in relation to this Agreement (including the implementation of all matters provided by this Agreement).

9. Warranties and Authority

- 9.1 Each Party warrants and represents that it has not sold, transferred, assigned or otherwise disposed of its interest in the Claims.
- 9.2 Each Party warrants and represents to the others with respect to itself that it has the full right, power and authority to execute, deliver and perform this Agreement.

10. Indemnities

- 10.1 The Liquidators and the Liquidator Controlled Companies hereby indemnify, and shall keep indemnified, the Trustee and the Trustee Controlled Companies against all costs and damages (including the entire legal expenses of the Trustee and the Trustee Controlled Companies) incurred in all future actions, claims and proceedings in respect of any of the Claims which they or any of them may bring against any of the Trustee and the Trustee Controlled Companies.
- 10.2 The Trustee and the Trustee Controlled Companies hereby indemnify, and shall keep indemnified, the Liquidators and the Liquidator Controlled Companies against all costs and damages (including the entire legal expenses of the Liquidators and the Liquidator Controlled Companies) incurred in all future actions, claims and proceedings in respect of any of the Claims which they or any of them may bring against any of the Liquidators and the Liquidator Controlled Companies.

11. No Admission

No action to be taken under this Agreement shall be deemed to constitute or be construed as an admission of liability, fault or wrongdoing by any Party under or in connection with any agreement and any relationship between them of any nature whatsoever, whether materialised in a written instrument or otherwise.

12. No Personal Liability on the Liquidators and the Trustee

Each Party acknowledges and agrees that the Liquidators and the Trustee enter into this Agreement as agents of the Liquidation Companies and CFG Peru only. Neither the Liquidators or any of the Liquidators' Representatives or the Trustee or the

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Trustee's Representatives shall incur any personal liability, whether in contract or tort under or in connection with this Agreement or under or in connection with any associated arrangements or negotiations, or under any document entered into or assurance made pursuant to this Agreement unless (i) such Liquidator, Liquidators' Representative, Trustee or Trustee's Representative was fraudulent, grossly negligent, or committed wilful default, or (ii) such document or assurance expressly so provides. The exclusion of liability set out in this Clause shall arise and continue notwithstanding the termination of the agency of the Liquidators and the Trustee and shall operate as a disclaimer of any claims in tort as well as under the laws of contract and any claims otherwise at law or in equity. Each Party acknowledges that the exclusion of liability under this Clause is given for the benefit of the Liquidators' Representatives and the Trustee's Representative, and the Liquidators' Representatives and Trustee's Representatives may enforce the terms of this paragraph subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Ordinance (Cap. 623 of the Laws of Hong Kong).

13. Notices

13.1 A notice or other communication under or in connection with this Agreement ("**Notice**") shall be:

- (a) in writing;
- (b) in the English language; and
- (c) sent by post or email to the Party due to receive the Notice at the following addresses or email addresses:

Name of Party	Address	Email address	Designated person
Any of the Liquidator Controlled Companies	FTI Consulting (Singapore) Pte Limited, 8 Shenton Way, #32-03, AXA Tower, Singapore 068811	<u>Nick.Gronow@fticonsulting.com</u>	Mr Nicholas James Gronow
The Liquidators	FTI Consulting (Singapore) Pte Limited, 8 Shenton Way, #32-03, AXA Tower, Singapore 068811	<u>Nick.Gronow@fticonsulting.com</u>	Mr Nicholas James Gronow
Any of the Trustee Controlled Companies	110 E 42nd St #1818 New York, NY 10017 United States -and- Av. Manuel Olguín 325 floor 15 Santiago de Surco Lima, Peru	<u>bbrandt@DSIConsulting.com</u> -and- <u>fpaniagua@copeinca.com.pe</u>	Mr William A. Brandt, Jr. -and- Francisco Paniagua
The	110 E 42nd St #1818	<u>bbrandt@DSIConsulting.com</u>	Mr William A.

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Trustee	New York, NY 10017 United States	<i>ulting.com</i>	Brandt, Jr.
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14. Severability

If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

15. Entire Agreement

- 15.1 This Agreement constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 15.2 Each Party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement.

16. Governing law

This Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of Hong Kong.

17. Jurisdiction

Each Party irrevocably agrees that the Hong Kong Court shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation.

18. Contracts (Rights of Third Parties) Ordinance (Cap. 623)

Subject to clause 11 above, the Parties agree that the terms of this Agreement are not enforceable by any third party under the Contracts (Rights of Third Parties) Ordinance.

19. Counterparts

This Agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement. Delivery of this Agreement by facsimile or other electronic means shall be effective as delivery of the original Agreement.

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20. Variation

No variation of this Agreement shall be effective unless it is in writing and signed by the Parties (or their authorised representatives).

This Agreement has been entered into on the date stated at the beginning of it.

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SIGNATURE PAGE

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SCHEDULE 1

1. Alatir Limited (in liquidation) (Messrs. Nicholas James Gronow and John David Ayres being the joint and several liquidators)
2. Europaco AP Limited
3. Europaco BP Limited
4. Europaco EP Limited
5. Europaco GP Limited
6. Europaco Limited (in liquidation) (Messrs. Nicholas James Gronow and John David Ayres being the joint and several liquidators)
7. Fantastic Buildings Limited
8. Metro Win Inc. Limited (in liquidation) (Messrs. Nicholas James Gronow and John Howard Batchelor being the joint and several liquidators)
9. New Millennium Group Holdings Limited
10. Pacific Andes Enterprises (BVI) Limited (in liquidation) (Messrs. Nicholas James Gronow and John David Ayres being the joint and several liquidators)
11. Paco Sigma Limited
12. Pacos Processing Limited
13. Pacos Trading Limited
14. Palanga Limited (in liquidation) (Messrs. Nicholas James Gronow and John David Ayres being the joint and several liquidators)
15. PARD Trade Limited (in liquidation) (Messrs. Nicholas James Gronow and John David Ayres being the joint and several liquidators)
16. Parkmond Group Limited (in liquidation) (Messrs. Nicholas James Gronow and John David Ayres being the joint and several liquidators)
17. Perun Limited (in liquidation) (Messrs. Nicholas James Gronow and John David Ayres being the joint and several liquidators)
18. Richtown Development Limited (in liquidation) (Messrs. Nicholas James Gronow and John David Ayres being the joint and several liquidators)
19. Solar Fish Trading Limited (in liquidation) (Messrs. Nicholas James Gronow and John David Ayres being the joint and several liquidators)
20. Zolotaya Orda Limited (in liquidation) (Messrs. Nicholas James Gronow and John David Ayres being the joint and several liquidators)

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SCHEDULE 2

1. CFG Peru Investments Pte. Limited, (Company number *[insert number]*) whose registered office is *[insert address]*.
2. Protein Trading Limited, (Company number *[insert number]*) whose registered office is *[insert address]*.
3. Sustainable Fishing Resources S.A.C., (Company number *[insert number]*) whose registered office is *[insert address]*.
4. Sustainable Pelagic Fishery S.A.C., (Company number *[insert number]*) whose registered office is *[insert address]*.
5. China Fishery Group Limited, (Company number *[insert number]*) whose registered office is *[insert address]*.
6. CFG Investment S.A.C., (Company number *[insert number]*) whose registered office is [Av. Manuel Olgún 325 floor 15 Santiago de Surco, Lima, Peru].
7. Copeinca AS, (Company number *[insert number]*) whose registered office is *[insert address]*.
8. Copeinca Internacional SA, (Company number *[insert number]*) whose registered office is *[insert address]*.
9. Corporacion Pesquera Inca S.A.C., (Company number *[insert number]*) whose registered office is *[insert address]*.
10. PFB Fisheries BV, (Company number *[insert number]*) whose registered office is *[insert address]*.
11. Inversiones Pesqueras West S.A.C., (Company number *[insert number]*) whose registered office is *[insert address]*.
12. Macro Capitales SA, (Company number *[insert number]*) whose registered office is *[insert address]*.
13. Inmobiliaria y Constructora Pahk S.A.C., (Company number *[insert number]*) whose registered office is *[insert address]*.
14. Corporacion Pesquera Frami S.A.C., (Company number *[insert number]*) whose registered office is *[insert address]*.
15. Consorcio Vollmacht S.A.C., (Company number *[insert number]*) whose registered office is *[insert address]*.
16. Inmobiliaria Gainesville S.A.C., (Company number *[insert number]*) whose registered office is *[insert address]*.
17. J. Wiludi & Asociados Consultores En Pesca S.A.C., (Company number *[insert number]*) whose registered office is *[insert address]*.

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SCHEDULE 3 CONSENT SUMMONS

HCA 688/2019 and HCA 836 / 2019

**IN THE HIGH COURT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
COURT OF FIRST INSTANCE
ACTION NOS. 688 OF 2019 AND 836 OF 2019**

BETWEEN

PACIFIC ANDES ENTERPRISES (BVI) LIMITED (IN LIQUIDATION)	1 st Plaintiff
SOLAR FISH TRADING LIMITED (IN LIQUIDATION)	2 nd Plaintiff
RICHTOWN DEVELOPMENT LIMITED (IN LIQUIDATION)	3 rd Plaintiff
PARKMOND GROUP LIMITED (IN LIQUIDATION)	4 th Plaintiff
EUROPACO LIMITED (IN LIQUIDATION)	5 th Plaintiff
PALANGA LIMITED (IN LIQUIDATION)	6 th Plaintiff
ZOLOTAYA ORDA LIMITED (IN LIQUIDATION)	7 th Plaintiff

and

NG JOO SIANG	1 st Defendant
TEH HONG ENG	2 nd Defendant
NG JOO KWEE	3 rd Defendant
NG JOO PUAY, FRANK	4 th Defendant
NG PUAY YEE, ANNIE	5 th Defendant
NG JOO THIENG	6 th Defendant
NG JOO CHUAN	7 th Defendant
TEH HONG ENG INVESTMENTS HOLDING LIMITED	8 th Defendant
THRONE HOLDINGS LIMITED	9 th Defendant
ANSANFONA ENTERPRISES LIMITED	10 th Defendant
HARPER GROUP LIMITED	11 th Defendant
ALMEDA ENTERPRISE LIMITED	12 th Defendant
GOWILL HOLDINGS LIMITED	13 th Defendant
GLORIOUS BRIGHT ENTERPRISE LIMITED	14 th Defendant
KOBE HOLDING INVESTMENT LIMITED	15 th Defendant
KATO INVESTMENTS LIMITED	16 th Defendant
DALWEST LIMITED	17 th Defendant
MERIDIAN INVESTMENT GROUP PTE LTD	18 th Defendant
CFG INVESTMENT S.A.C.	19 th Defendant

(Consolidated by the Order of Master Anthony H. K. Chan dated 29 July 2020)

CONSENT SUMMONS

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O. 21 r.3)
RHC, O. 23)
RHC and the)
inherent)
jurisdiction of)
the Court)

LET ALL PARTIES concerned attend before _____ in Court sitting at the High Court of Hong Kong Special Administrative Region, Court of First Instance, No. 38 Queensway, Hong Kong on Wednesday, the _____ day of _____ 2021 at _____ o'clock in the noon for the joint application of the Solicitors for the Plaintiffs and the Solicitors for the 19th Defendant for an order BY CONSENT that:

1. The consolidated action of HCA 688/2019 and HCA 836/2019 as consolidated by the order of Master Anthony H.K. Chan dated 29 July 2020 (“**Consolidated Action**”) be discontinued against the 19th Defendant;
2. Action HCA 836/2019 commenced by the 1st, 2nd, and 5th to 7th Plaintiffs against the 19th Defendant (the “**836 Action**”) be discontinued;
3. The security for the 19th Defendant’s costs in the Consolidated Action in the sum of HK\$3,800,000 (“**Security for Costs**”) paid into Court on 31 August 2020 pursuant to the Order made by Master Roy Yu dated 27 August 2020, be paid out to the Plaintiffs through its Solicitors, Messrs. Clifford Chance;
4. The interest accrued on the Security for Costs, if any, be paid out forthwith to the Plaintiffs through its Solicitors, Messrs. Clifford Chance; and
5. There be no order as to costs as between the Plaintiffs and the 19th Defendant (including all costs reserved and costs order made but not yet satisfied) in relation to:
 - (a) this application;
 - (b) the 836 Action; and
 - (c) the Consolidated Action.

Dated this _____ day of _____ 2021

Registrar

Draft February 19, 2021

We, the undersigned, do hereby consent to an Order to be made in the above terms.

Clifford Chance

Solicitors for the Plaintiffs

Tanner De Witt

Solicitors for the 19th Defendant

This Summons was taken out by Messrs Tanner De Witt of 17th Floor, Tower One, Lippo Centre, 89 Queensway, Hong Kong, solicitors for the 19th Defendant (Ref.: 1900548/IDW/TA).

Tanner De Witt

Solicitors for the 19th Defendant

Time estimate: 3 minutes

To: The Registrar
High Court
Hong Kong SAR

And to: Clifford Chance
Solicitors for the Plaintiffs
27th Floor, Jardine House
One Connaught Place
Hong Kong
(Ref: SRB/TRW.10-40639673.YYWS)

Lipman Karas
Solicitors for the 1st, 2nd, 4th to 18th Defendants
Level 23, Three Pacific Place
1 Queen's Road East
Hong Kong

Draft February 19, 2021

(Ref: 1413/10967)

HCA 688/2019 and HCA 836 / 2019

**IN THE HIGH COURT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
COURT OF FIRST INSTANCE
ACTION NOS. 688 OF 2019 AND 836 OF 2019**

BETWEEN

PACIFIC ANDES ENTERPRISES (BVI) LIMITED (IN LIQUIDATION)	1 st Plaintiff
SOLAR FISH TRADING LIMITED (IN LIQUIDATION)	2 nd Plaintiff
RICHTOWN DEVELOPMENT LIMITED (IN LIQUIDATION)	3 rd Plaintiff
PARKMOND GROUP LIMITED (IN LIQUIDATION)	4 th Plaintiff
EUROPACO LIMITED (IN LIQUIDATION)	5 th Plaintiff
PALANGA LIMITED (IN LIQUIDATION)	6 th Plaintiff
ZOLOTAYA ORDA LIMITED (IN LIQUIDATION)	7 th Plaintiff

and

NG JOO SIANG	1 st Defendant
TEH HONG ENG	2 nd Defendant
NG JOO KWEE	3 rd Defendant
NG JOO PUAY, FRANK	4 th Defendant
NG PUAY YEE, ANNIE	5 th Defendant
NG JOO THIENG	6 th Defendant
NG JOO CHUAN	7 th Defendant
TEH HONG ENG INVESTMENTS HOLDING LIMITED	8 th Defendant
THRONE HOLDINGS LIMITED	9 th Defendant
ANSANFONA ENTERPRISES LIMITED	10 th Defendant
HARPER GROUP LIMITED	11 th Defendant
ALMEDA ENTERPRISE LIMITED	12 th Defendant
GOWILL HOLDINGS LIMITED	13 th Defendant
GLORIOUS BRIGHT ENTERPRISE LIMITED	14 th Defendant
KOBE HOLDING INVESTMENT LIMITED	15 th Defendant
KATO INVESTMENTS LIMITED	16 th Defendant
DALWEST LIMITED	17 th Defendant
MERIDIAN INVESTMENT GROUP PTE LTD	18 th Defendant
CFG INVESTMENT S.A.C.	19 th Defendant

CONSENT SUMMONS

Dated the	day of	2021
Filed on the	day of	2021

Tanner De Witt
Solicitors for the 19th Defendant
17th Floor, Tower One
Lippo Centre
89 Queensway

Draft February 19, 2021

Hong Kong
Tel: 2573 5000
Fax: 2802 3553
(Ref: 1900548/IDW/TA)

EXHIBIT C

Brandt Declaration

**DECLARATION OF WILLIAM A. BRANDT, JR., TRUSTEE
FOR CFG PERU INVESTMENTS PTE. LTD. (SINGAPORE)**

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), CFGL (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. Limited (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) (the “Debtors”).

Action With Certain Liquidation Companies HCA 836/2019, (II) Authorizing Corporate Governance Actions, And (III) Granting Related Relief (the “**Motion**”).² Except as otherwise noted, all facts in this Declaration are based on my personal knowledge of the matters set forth herein, information gathered from my review of relevant documents, and information supplied to me by individuals employed by CFG Peru.

A. BACKGROUND

1. On June 30, 2016, each of the Debtors, except Pacific Andes Resources Development Ltd. (“**PARD**”), Nouvelle Foods International Ltd. (“**Nouvelle**”), Golden Target Pacific Limited (“**Golden Target**”), Pacific Andes International Holdings (BVI) Limited (“**PAIH (BVI)**”), Zhonggang Fisheries Limited (“**Zhonggang**”), and the Additional Debtors (defined below) filed voluntary petitions under the Bankruptcy Code in this Court. On September 29, 2016, PARD filed its Chapter 11 bankruptcy case. On March 27, 2017, Nouvelle and Golden Target filed Chapter 11 bankruptcy cases. On April 17, 2017, PAIH (BVI) and Zhonggang filed Chapter 11 bankruptcy cases. Last, on May 2, 2017, an additional sixteen³ Debtors filed Chapter 11 bankruptcy cases (the “**Additional Debtors**,” collectively, with PARD, Nouvelle, Golden Target, PAIH (BVI), Zhonggang, and the other Debtors’ Chapter 11 cases, the “**Chapter 11 Cases**”).

2. CFG Peru is the direct 100% (or close to 100%) shareholder of the following Peruvian companies: (a) CFG Investments S.A.C. (“**CFG**”), (b) Inmobiliaria Gainesville

² Capitalized terms not otherwise defined herein have the meaning ascribed to them in the Motion.

³ The Additional Debtors are: 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).

S.A.C., (c) Sustainable Pelagic Fishery S.A.C., and (d) Sustainable Fishing Resources S.A.C. (collectively, the “**100% Peruvian Subsidiaries**”). CFG Peru is also the direct 100% shareholder of China Fishery Group Limited (Hong Kong) (“**CFGL HK**”), a Hong Kong company.

3. In addition, CFG Peru owns one or more shares of the following entities: (a) J. Wiludi & Asociados Consultores en Pesca S.A.C., (b) Consorcio Vollmacht S.A.C., (c) Corporacion Pesquera Frami S.A.C., (d) Inmobiliaria y Constructora Pahk S.A.C., and (e) Inversiones Pesqueras West S.A.C. (collectively, the “**De Minimis Subsidiaries**”), and together with the 100% Peruvian Subsidiaries, the “**Direct Peruvian Subsidiaries**”). Each of the De Minimis Subsidiaries is a Peruvian company.

4. CFG Peru is also the direct 100% shareholder of Debtor Protein Trading Limited (“**Protein Trading**” and together with the Direct Peruvian Subsidiaries and CFG HK, the “**Direct Subsidiaries**”).

5. Finally, the following entities are indirect subsidiaries of CFG Peru: (a) Copeinca AS (Norway), (b) Copeinca Internacional S.A. (Spain), (c) Copeinca, (d) PFB Fisheries B.V. (Netherlands), and (v) Macro Capitaes S.A. (Panama) (collectively, the “**Indirect Subsidiaries**”).

6. Various of the directors, general managers, and legal representatives of the Direct Subsidiaries and Indirect Subsidiaries are members of the Ng family or individuals associated with the Ng family (collectively, the “**Ng Subsidiary Directors**”).

B. SALE OF PERUVIAN OPCOS

7. I was appointed Trustee on November 10, 2016. Since my appointment I have, among other things, prepared operational plans to maximize long-term value of the

operating companies located in Peru, that is CFGI and Corporacion Pesquera Inca S.A.C. (collectively, the “**Peruvian OpCos**”), and initiated a process to sell CFG Peru’s equity interests in CFGI.

8. The Peruvian OpCos will provide the cornerstone of the restructuring effort in the Chapter 11 Cases with respect to CFG Peru and the Debtors more generally.

9. I have since my appointment worked to identify the best way to maximize the value of the Peruvian OpCos for the benefit of the Debtors’ estates. I first encountered the Peruvian OpCos without any working-capital credit lines, with minimal cash available, and the subject of involuntary proceedings commenced by creditors in Peru with the INDECOPI. I since have negotiated a dismissal of the INDECOPI proceedings, facilitated the Peruvian OpCos’ operational return to profitability, and cleared various other obstacles to either a sale of CFG Peru’s direct and indirect equity interests in the Peruvian OpCos or an alternative transaction that would compromise the Peruvian OpCos’ third-party debt, e.g., the Club Loan and the Notes.

C. SETTLEMENT OF CFGI HK ACTION

10. A significant impediment to either a sale or alternative transaction remained in the form of claims put forth by certain liquidators appointed by the BVI Court for certain Pacific Andes affiliates against CFGI in the CFGI HK Action that allege a tenuous connection to the supposed trade-finance fraud and seek damages of \$152 million.

11. I (and CFGI) dispute the allegations in the CFGI HK Action, but the CFGI Liquidation Plaintiffs have leverage against CFGI—and therefore CFG Peru, since resolution of the CFGI HK Action is essential to the resolution of CFG Peru’s Chapter 11 Case. I understand it will take years to obtain a decision on the merits in Hong Kong. Until then, the action’s very existence hampers the sale process and alternatives like a creditor-led transaction.

12. My goal always has been to prevent the CFGI HK Action from hindering the sale effort or a creditor-led transaction and prolonging CFG Peru's Chapter 11 Case. That dynamic caused me in December 2019 to file the Mediation Motion requesting authority to submit the CFGI HK Action to mediation. The parties commenced mediation sessions in June 2020 (having been delayed by the COVID-19 pandemic). Through the summer and fall, with the help of the Mediator (The Honorable Robert D. Drain), the parties exchanged various settlement proposals. On or about January 6, 2021 CFGI and the CFGI Liquidation Plaintiffs reached an agreement in principle to settle that lawsuit. Their agreement is now reflected in the Settlement Agreement, the salient terms of which include dismissal of the CFGI HK Action "with consent," a single, \$12 million cash payment by CFGI to the CFGI Liquidation Plaintiffs in settlement of the claims, and mutual releases of various entities and their affiliates, including Protein Trading and other Direct Subsidiaries.

13. Settlement of the CFGI HK Action terminates costly litigation that could plod on aimlessly for years.

14. Equally important is the much-needed clarity with respect to the assets being sold in CFG Peru's Chapter 11 Case that the settlement provides. I am selling CFG Peru's direct and indirect stock in the Peruvian OpCos. A stock-sale structure means I must make certain representations to the purchaser about the Peruvian OpCos' liabilities and that no sale can close in the face of unresolved liabilities. Any sale to a third-party purchaser requires a quantification of all outstanding debts and a sale price sufficient to satisfy that debt. Despite a robust marketing process, no bidder has come forward to date at a price necessary to pay off the Club Loan and Notes, let alone at a price necessary to cover the Club Loan and Notes as well as an additional \$152 million to be placed in escrow.

15. As I have testified previously,⁴ bidding for the Peruvian OpCos is being chilled by a contingent, \$152-million liability that is a “bracketed” component of the price. The uncertainty surrounding this \$152-million liability also impacts negotiations concerning a creditor-led transaction because the CFGI Liquidation Plaintiffs’ claim against CFGI will need to be compromised or paid.

16. I believe approval of the Settlement Agreement will inure to the benefit of CFG Peru’s and Protein Trading’s estates, creditors, and other stakeholders by significantly facilitating the sale process or a creditor-led alternative transaction and a conclusion of the CFG Peru Chapter 11 Case; it also results in those entities obtaining releases of claims brought against them by the CFGI Liquidation Plaintiffs.

D. CORPORATE GOVERNANCE ACTIONS RELATING TO SETTLEMENT

17. The Motion also requests authority for me to take certain actions with respect to the Direct Subsidiaries that may be required to have the Settlement Agreement executed and implemented.

18. Specifically, under their existing powers of attorney, the general managers at the Direct Peruvian Subsidiaries may not have independent authority to approve of or enter into the Settlement Agreement and ancillary documents. Each of the Direct Peruvian Subsidiaries may need to convene shareholder meetings to approve of and enter into of the Settlement Agreement and to empower their managers to take actions to implement the Settlement Agreement and any other transactions contemplated therein, including by executing and subscribing any documents.

⁴ See [ECF No. 1856] (Brandt Decl.) ¶ 5 (“[C]oncern over a potential significant claim at Copeinca has chilled bidding in the CFG Peru Sale”); ¶ 6 (“[A]ny bidder willing to bear the risk will likely reduce its proposed purchase price to account for the inherent risk that is associated with the Hong Kong Action”); ¶ 7 (“[A] number of parties [] have expressed concerns in connection with the FTI Liquidators’ long-standing actions, including multiple potential bidders in the CFG Sale process, some of whom have been unwilling to engage in the CFG Peru Sale process while those issues remain outstanding.”).

19. CFG Peru currently owns one or more shares of each of the Direct Peruvian Subsidiaries, and I am CFG Peru's representative in its capacity as shareholder for each of the Direct Peruvian Subsidiaries. I understand that in Peru, a representative may designate a person to represent and vote the shareholder's shares at such meeting by issuing a proxy. While I am often in Peru in connection with CFG Peru's Chapter 11 Case, I may not be in Peru on the exact date the shareholder meetings will be held, particularly in light of the travel restrictions brought on by the global COVID-19 pandemic. As a result, I intend to issue proxies to the managers of each of the Direct Peruvian Subsidiaries so they can vote CFG Peru's shares in those entities at each Direct Peruvian Subsidiary's shareholder meeting in favor of approving and entering into the Settlement Agreement and any ancillary documents related thereto, and empowering the managers to implement the Settlement Agreement and any other transactions contemplated therein, including by executing and subscribing documents.

20. Similarly, the Ng Subsidiary Directors remain as directors, general managers, and/or legal representatives at most of the Direct Subsidiaries and Indirect Subsidiaries. To consummate the Settlement Agreement, I may require the Ng Subsidiary Directors' cooperation at certain of those subsidiaries, including, but not limited to, CFGI HK and Protein Trading, in order for those subsidiaries to enter into and effectuate the Settlement Agreement.

21. I have no reason to expect the Ng Subsidiary Directors will not cooperate with causing the Direct Subsidiaries and Indirect Subsidiaries to enter into the Settlement Agreement and to perform thereunder as appropriate. However, out of an abundance of caution, to ensure that the terms of the Settlement Agreement can be effectuated promptly if approved by this Court, I am seeking authority to take the corporate governance actions necessary, consistent with applicable foreign laws, to remove or replace the Ng Subsidiary Directors at the Direct

Subsidiaries in the event they are unwilling to cooperate.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: February 19, 2021

By: /s/ William A. Brandt, Jr.
Name: William A. Brandt, Jr.
Title: Chapter 11 Trustee
CFG Peru Investments Pte. Ltd. (Singapore)