

COMMONWEALTH OF THE BAHAMAS

2011

IN THE SUPREME COURT

COM /bnk / 00083

Commercial Division

MAR 17 2014

**IN THE MATTER OF Montaque Capital Partners Ltd  
(in Liquidation).**

**AND IN THE MATTER OF the Companies Act, 1992**

---

**ORDER**

---

**BEFORE** His Lordship the Honourable Sir Michael Barnett, Chief Justice of the Supreme Court of the Commonwealth of The Bahamas, in chambers

**UPON THE APPLICATION** by Messrs. Edmund L. Rahming and Kenneth M. Krys, the Joint Liquidators of Montaque Capital Partners Ltd (In liquidation) ("Montaque") by Summons filed herein on the 13<sup>th</sup> February, 2014 for the Court's approval of the Liquidators' remuneration and costs since 1<sup>st</sup> February, 2013 through 31<sup>st</sup> January, 2014

**AND UPON READING** the Sixth Affidavit of Edmund Rahming filed herein on the 13<sup>th</sup> February, 2014 and Seventh Affidavit of Edmund Rahming filed herein on 3<sup>rd</sup> March, 2014 in support thereof

**AND UPON READING** the Third Report of the Joint Liquidators filed herein on the 4<sup>th</sup> March, 2014

**AND UPON HEARING** Ms. Metta MacMillan-Hughes with Ms. Sophia T. Rolle of Counsel for the Joint Liquidators and Mr. Charles Mackay of Counsel for Mrs. Paulette Bethel

**IT IS HEREBY ORDERED** that the remuneration and costs of the Liquidators as hereafter set out be and is hereby approved for payment as follows:

1. The remuneration of the Joint Liquidators for the period 1<sup>st</sup> February, 2013 to 31<sup>st</sup> January, 2014 in the amount of \$172,966.00;
2. KRys Global of 8 Caves Professional Centre, Caves Village, Nassau, Bahamas for the period 1<sup>st</sup> February, 2013 to 31<sup>st</sup> January, 2014 in the amount of \$215,244.78;
3. Messrs. Lennox Paton of Bayside Executive Park No. 3 West Bay St, Nassau, Bahamas for the period 1<sup>st</sup> February, 2013 to 31<sup>st</sup> January, 2014 in the amount of \$175,651.80; and
4. Messrs. Lax O'Sullivan Scott Lisus LLP of Suite 2750, 145 King St. West, Toronto, Canada for the period 1<sup>st</sup> February, 2013 to 31<sup>st</sup> January, 2014 in the amount of \$66,829.14

**AND IT IS HEREBY ORDERED** that

1. The Liquidators shall deduct or cause to be deducted from the Trust Assets such costs in the liquidation as have been approved by the Order made herein and as have been segregated in the Schedule appended hereto in the following manner:

- a. The General Liquidation costs in the total amount of \$565,158 by notionally aggregating all the available Trust Assets and deducting the costs from each of the assets in the same proportion which each of the assets bear to the aggregate.
- b. The MPW costs in the total amount of \$65,533.72 by notionally aggregating all the available Trust Assets held or formerly held in Canada and deducting the costs from each of the assets in the same proportion which each of the assets bear to the aggregate.

**AND** insofar as any Trust Asset comprises a combination of money and securities the Liquidators shall deduct from the money portion thereof before liquidating the securities

**AND IT IS FURTHER ORDERED that:**

2. Insofar as certain trust assets in the name of Montaque at Macquarie Private Wealth Inc ("MPW") in Canada ("MPW trust assets") are presently subject to determination by the Ontario Superior Court of Justice, Canada as to entitlement and payment over to Liquidators, or to any beneficiaries of the MPW trust assets and therefore not available to the Liquidators to bear any portion of the costs set out in paragraphs (a) and (b) ("Liquidators' costs") above, in the event and to the extent that any of the MPW trust assets are pursuant to an Order of the Ontario Superior Court of Justice released to Montaque or any beneficiaries of the MPW trust assets:
  - a. The Liquidators' costs will undergo an assessment by the Supreme Court of The Bahamas for determination as to the extent to which they are considered beneficial to the MPW trust

assets and, to the extent found to be so beneficial, such costs will be considered costs in the administration of MPW trust assets to be paid from the MPW trust assets rateably **SUBJECT TO** as further provided below.

- b. There will be a rateable allocation of the aggregate cost of administration of the MPW trust assets amongst all beneficiaries entitled to them. Accordingly, in the event that M.I.S. Consulting Inc (“MIS”) (one of several beneficiaries of MPW trust assets), and/or other beneficiary of the MPW trust assets, incurs costs beneficial to the MPW trust assets (and as such considered costs in the administration of MPW trust assets), to such extent, each of them will be entitled to have a reckoning by a court in The Bahamas or Canada of such costs relative to the Liquidators’ costs insofar as the same are allocated to their respective beneficial interest in the MPW trust assets.
- c. Any cost in the administration of the MPW trust assets shall be subject to a court assessment (in The Bahamas in the case of the Liquidators and in either of The Bahamas or Canada in the case of any other) before being applied against any MPW trust asset.
- d. Liberty for any person claiming to be interested in the MPW trust assets to apply.

**AND IT IS FURTHER ORDERED AND DIRECTED that**

3. All further costs in the liquidation as are approved by the Court shall be paid in the manner set out at paragraph 1 hereof and there shall on the application by the Liquidator for such approval be lodged a Schedule in the form of that appended hereto segregating such costs
4. The Liquidators' costs of this application and interested persons appearing shall be costs in the liquidation.

**Dated this 14<sup>th</sup> day of March 2014**

**BY ORDER OF THE COURT**

**REGISTRAR**

