

March 15, 2021

## 2<sup>nd</sup> Circular to Customers / Creditors

Dear Sirs,

**Subject: Torque Group Holdings Limited (In Provisional Liquidation) (“Torque”)  
BVI Company Registration Number: 2024611**

I refer to the Circular dated 3 March 2021 (“1<sup>st</sup> Circular”), in which the Provisional Liquidators notified creditors of their appointment and provided an update on immediate next steps. A copy of the Court Order is now available and is enclosed (case number BVIHCOM2021/0031).

Unless otherwise defined herein, capitalised terms used in this circular shall have the same meanings as those defined in the 1<sup>st</sup> Circular.

The purpose of this circular (“2<sup>nd</sup> Circular”) is to provide customers with an update on progress since our appointment as Provisional Liquidators of Torque and next steps.

### A. Background

#### 1) Torque Group Structure

Torque primarily serves as a global online platform for crypto-to-crypto trading and provides users (“Users”) with a trading platform and other crypto-related services via its websites and mobile applications (“Services”).

Torque accepted deposits from the following cryptocurrencies (i) Bitcoin (“BTC”); (ii) Ether (“ETH”); (iii) Tether (“USD₮”); (iv) Litecoin (“LTC”); (v) Bitcoin Cash (“BCH”); (vi) Tron (“TRX”); and (vii) Ripple (“XRP”). Torque did not accept deposits in any other cryptocurrency or fiat currency.

Torque is a part of the “Torque Group” which also comprises:

- Torque Management Ltd., a company incorporated in Malta (“Torque Management”), which has no operations, assets or liabilities; and
- Torque Technologies Company Ltd., a company incorporated in Vietnam and wholly-owned and solely directed by Nguyễn Mạnh Hiếu, an independent Vietnamese national (“Torque Technologies”).

For the avoidance of doubt, the appointment of Provisional Liquidators of Torque does not extend to Torque Management or Torque Technologies – they are not subsidiaries of Torque.

Torque has a decentralised labour force with its core technology and operations teams working at the direction of Torque Technologies in Vietnam who are outsourced from a Vietnamese third party.

The Provisional Liquidators have been advised that there are no contracts in place formalising the above arrangements between Torque and Torque Technologies.

## **2) *Binance Accounts***

Torque primarily uses Binance ([www.binance.com](http://www.binance.com)) as a cryptocurrency exchange to hold its Crypto Assets in a network of over 240 Binance sub-accounts (“Sub-Accounts”) linked to a main Binance account (“Main Account”) (collectively, the “Binance Accounts”). Each of these Sub-Accounts were used by Torque for trading the Crypto Assets to generate profits. Any external withdrawals of the Crypto Assets from the Sub-Accounts need to first be transferred to the Main Account to transact with third parties.

The Provisional Liquidators have identified that the Main Account is not a corporate Binance account, as corporate accounts were not available on Binance when Torque commenced trading. Instead, the Main Account is an individual account in the name of an employee held under a nominee arrangement for the benefit of Torque. The individual nominee has issued a letter to the Provisional Liquidators formally acknowledging the nominee arrangements and that the associated Crypto Assets are assets of Torque.

## **B. Role of Provisional Liquidators/Liquidators**

The Provisional Liquidators are officers of the BVI Court appointed to act on behalf of Torque’s creditors. The provisional liquidation and, ultimately, any liquidation that follows, is a Court process which the BVI Court controls through its appointed provisional liquidators and liquidators. In addition to their duties to the Court as officers of the Court, the Provisional Liquidators owe duties to Torque’s creditors. Whilst the Provisional Liquidators will seek to work with the directors, officers and shareholders of Torque in order to meet their duties to the Court and to Torque’s creditors, the Provisional Liquidators do not act on behalf of the directors, officers and/or shareholders of Torque.

Under section 171 of the British Virgin Islands (the “BVI”) Insolvency Act, 2003 (“Act”), a provisional liquidator has all the rights and powers of a liquidator to the extent necessary to maintain the value of the assets and to carry out the functions for which he was appointed. The Court may determine the powers of the provisional liquidator if it considers fit. The Court has done so in this case to assist the Provisional Liquidators in tracking and tracing Torque’s assets.

The Provisional Liquidators are bound by obligations set out in the Act and other duties imposed by the Court as outlined in the Court Order. Section 184 of the Act states that the Provisional Liquidators act as officers of the Court and are the agent of the company in liquidation – a key obligation is acting independently and in the best interests of creditors. This was emphasised during the hearing which resulted in the appointment of the Provisional Liquidators.

Upon the appointment of the Provisional Liquidators, the power of the directors of Torque have ceased and the directors no longer have any authority to deal with the assets of Torque. All dealings in Torque and its assets must now be authorised by one of the Provisional Liquidators or their authorised representatives.

All affairs, business, and property of Torque are now controlled by the Provisional Liquidators for the purpose of preserving, protecting and recovering Torque’s assets. Among other things, the responsibilities of the Provisional Liquidators include identifying, taking control of, protecting, and preserving the assets and business of the Company and carrying out such investigations as the Provisional Liquidators consider appropriate. As the BVI Court has ordered, that includes pursuing Torque’s assets in other jurisdictions if the Provisional Liquidators believe that to be a proper course in light of their duties.

### C. Experience of Borrelli Walsh, a Kroll Business

As of 30 November 2020, Borrelli Walsh is a part of Kroll (formerly known as Duff & Phelps), the world's premier provider of services and digital products related to governance, risk and transparency. Kroll works with clients across diverse sectors in the areas of valuation, expert services, investigations, cyber security, corporate finance, insolvency, restructuring, legal and business solutions, data analytics and regulatory compliance. It has nearly 5,000 professionals in 30 countries and territories around the world, that are now operating as one team to assist the Provisional Liquidators in respect of Torque (together, the "Kroll Group").

The Kroll Group has played key roles in many of the region's most significant and complex insolvencies, including most recently the liquidation of Gatecoin Limited, a Hong Kong based cryptocurrency exchange that involved over 100,000 investors and HKD302.6 million (USD39 million) of cryptocurrency claims. Set out below is a high-level snapshot of Kroll Group's relevant expertise:

- Insolvency and restructuring – Kroll Group is a market leading insolvency and restructuring firm specialising in complex and cross border assignments in Asia and the Caribbean. The expert team has extensive forensic accounting experience and apply this rigorous approach to their liquidation investigations, including establishing fund flows and asset tracing. With the benefit of these forensic investigations, we have a track record of successfully proving accounting frauds, securing assets internationally and recovering funds as Liquidators from legal claims against directors, auditors and shareholders, including through litigation and/or settlement negotiations, for the benefit of its creditors.
- Investigations and business intelligence - Kroll Group is internationally recognised as the premier firm in conducting investigations of fraud and misconduct. We develop facts and intelligence to support successful litigation strategies, perform due diligence investigations on prospective deals, and evaluate business opportunities and the strengths and weaknesses of competitors; and
- Cryptocurrency asset tracing and recovery - Kroll Group holistically investigates the technical and non-technical clues, leveraging off both to identify where the funds went and who was responsible. Kroll Group's advantage lies in the diverse skills of its investigative teams, comprised of former prosecutors, forensic accountants, investigators, computer forensic specialists and intelligence analysts. Kroll Group pioneered the concept of investigative accounting — the combination of robust forensic accounting with traditional investigative and intelligence gathering techniques and cutting-edge blockchain analytics. Kroll Group is involved in several ongoing actions for and against exchanges for the recovery of assets from hacks and thefts, including the identification of those responsible for the theft of USD tens of millions in BTC from a European exchange. Recent public engagements include being selected by the US SEC in the AriseBank case to assist the first ever receiver in an enforcement action against the promoters of an ICO, and being selected by the Trustee in the Quadriga bankruptcy to trace crypto assets following the collapse of the exchange in Canada.

### D. Securing of Assets

Upon their appointment, the Provisional Liquidators immediately sought to secure control of Torque's Crypto Assets as a matter of urgency by:

- freezing all Torque user accounts on the Torque system (website and application);
- securing control of Torque's Binance Accounts (Main Account and Sub-Accounts) by changing login credentials and two-factor identification details; and
- issuing a formal notification letter to Binance advising of the Provisional Liquidators appointment, requesting that all Torque Binance Accounts be immediately frozen and various historical trading information provided.

Torque's Crypto Assets under the control of the Provisional Liquidators comprise approximately 149 BTC equivalent (across multiple cryptocurrencies) representing a USD equivalent value of approximately USD9.1 million as at 14 March 2021.

Torque's Crypto Assets are comprised of:

Cryptocurrency	BTC equivalent	Estimated value (USD)	% Total
BTC	48.42	2,952,186.72	33%
USDT	32.68	1,992,500.69	22%
ETH	25.36	1,546,267.71	17%
XRP	15.75	960,041.94	11%
BNB	10.55	643,151.05	7%
Others	16.15	984,410.46	11%
<b>Total</b>	<b>148.91</b>	<b>9,078,558.57</b>	<b>100%</b>

Torque's management have advised that Torque does not own any assets other than Crypto Assets. The Provisional Liquidators are making their own enquiries to independently verify this.

#### E. Creditor Claims

Based on our preliminary review of Torque's records and investor database, Torque's creditor claims are estimated at USD325 million as at 2 March 2021 across more than 14,000 investors.

As mentioned in the 1<sup>st</sup> Circular, the Provisional Liquidators are not legally capable of repaying any Torque customers until they have properly verified all 14,000 customer claims and completed at least their preliminary investigations and have been directed to do so by the BVI Court. Given the number of customers and the complexity of Torque's business, the Provisional Liquidators will require time in order to, among other things, (1) ascertain the legal entitlements of customers, (2) verify whether appropriate Know-Your-Client ("KYC") procedures were conducted on customers, and (3) set up a proper procedure to verify claims from all creditors in accordance with BVI law.

These processes will necessarily and reasonably take time and require legal advice and, potentially, the BVI Court's direction on matters including (but not limited to):

- Assets – establishing entitlements to Torque's Crypto Assets as between creditors of Torque and other competing parties;
- Personal Trading Accounts - certain creditors advise they had an agreement with Torque management whereby their Crypto Assets were held in specific Torque Sub-Accounts 'on trust' for their personal trading. These Crypto Assets were not deposited on Torque's Binance Accounts through the Torque website or App platforms, but separately transferred to Torque's Binance Accounts. We have requested further supporting documentation from these creditors and will obtain legal advice to clarify the position; and
- Creditor claims – under BVI law, the Provisional Liquidators must ask creditors to submit proofs of debt ("POD") that set out the value of their claims and provides relevant supporting details. The PODs and supporting documents will allow the Provisional Liquidators to review and accept creditor claims. Once the BVI Court has issued an Order appointing Liquidators (as opposed to Provisional Liquidators), the Liquidators, with the benefit of these PODs, will pay distributions to all creditors 'pari passu' (meaning in equal shares based on value). As mentioned in the 1<sup>st</sup> Circular, Torque has over 14,000 estimated customers spanning more than 120 countries. The Provisional liquidators are considering cost effective methods to undertake this process that balances the requirements under BVI law to properly validate PODs whilst ensuring the Provisional Liquidators/Liquidators' time costs are more appropriately focused on recovering assets for the benefit of Torque's creditors.

These legal issues, together with information challenges (explained at Section F.1 below), will require time for the Provisional Liquidators to resolve.

We will write to creditors outlining the creditor claim verification (POD) process in due course.

## F. Preliminary Investigation Update

Torque's creditor claims are approximately USD325 million and the Crypto Assets under the control of the Provisional Liquidators are valued at approximately USD9.1 million as of 14 March 2021, representing an apparent current loss of asset value of approximately USD317 million ("Crypto Asset Losses").

The Provisional Liquidators' immediate priority is to conduct a detailed investigation to establish the proportion of the Crypto Asset Losses attributable to:

- Trading Losses – Crypto Assets Losses resulting from unauthorised leveraged cryptocurrency trading allegedly undertaken by the former Chief Technology Officer ("CTO") – where these losses are considered operational in nature, they are not directly recoverable by the Provisional Liquidators as against the counterparties to the relevant trades. In any event, legal claims can be pursued for these Trading Losses against the former CTO for breach of fiduciary duties and other legal bases; and
- Misappropriated Assets – Crypto Asset Losses resulting from certain individuals misappropriating Torque's Crypto Assets to their personal accounts or accounts of related parties. To date, we have established that Torque's former Chief Technology Officer ("CTO") Wu Zhongyi ("Zee") appears to have misappropriated at least 72 BTC (approximately USD5 million in value) from Torque. At all material times, Zee had approval rights and control of Torque's Binance Accounts. From our preliminary investigations, it appears that Zee gave instructions to Binance to approve ('whitelist') a new BTC wallet address ("Unauthorised Wallet") using his Binance Account approval rights. Once the Unauthorised Wallet was approved by Binance, Zee transferred 72 BTC from Torque's Binance Accounts to the Unauthorised Wallet ("Unauthorised Transfer"). The Unauthorised Transfer was not transferred through Torque's nominated company wallet (managed by Torque Vietnam) and therefore was not recorded or recognised on Torque's system as a transfer. We are in the process of tracing the Unauthorised Transfer to the Unauthorised Wallet (refer to Section F.2 below).

The Provisional Liquidators' investigations of Crypto Asset Losses is necessarily detailed and complex, however they are focussed on identifying, freezing and recovering Crypto Assets as quickly as possible.

To protect the integrity of the Provisional Liquidators' investigations, some of these efforts must remain confidential and we request your understanding in this regard. We will provide you material updates as and when appropriate.

Set out below are the key workstreams being undertaken in respect of the Provisional Liquidators' investigation:

### **1) Securing Torque's books and records**

The first and most critical step of the Provisional Liquidators' investigation is securing all available information in respect of Torque's customers and Crypto Assets held on both (i) Torque's electronic databases and applications (managed by Torque Vietnam); and (ii) Torque's Binance system.

Immediately upon appointment, Kroll Group cyber team forensically imaged all of Torque's back-end databases, applications and server information. Additionally, the Provisional Liquidators extracted a full transactional report setting out all Deposits and Withdrawals from the Binance Accounts.

Given the substantial volume of data, it will take some time to fully reconcile the information available from the various sources – this involves (at least) 3.5 million transactions (deposits, withdrawals and trades) from more than 14,000 customers across two different systems. The Provisional Liquidators are utilising the Kroll Group's cyber security and technology experts in this regard.

To date, Torque management and Torque Technologies' team in Vietnam have been fully cooperative and transparent – making available all requested information.

### **2) Tracing and Freezing Assets**

The Provisional Liquidators' asset tracing activities are focussed on:

- Crypto Assets – utilising Kroll Group’s substantial cyber/technology expertise to trace the Unauthorised Transfer and any other misappropriated Crypto Assets identified to their ultimate digital wallet destination and identifying the owner of these digital wallets and their location.
- Other assets of relevant parties – utilising Kroll Group’s substantial investigations and intelligence services to identify assets globally of Zee and/or any other relevant parties that were the beneficiary of misappropriated Crypto Assets.

The tracing of both Crypto Assets and other assets will facilitate potential legal and other recovery action against these individuals in the relevant jurisdictions if the grounds for the same exist. This will likely involve the Provisional Liquidators applying to courts in the relevant jurisdictions (Singapore, BVI, Vietnam or wherever Torque’s assets are discovered).

### **3) Liquidators’ Legal Claims**

Liquidators have several statutory options available to them under the Act to facilitate investigations and asset recoveries for the benefit of all creditors. Part IX of the Act permits the liquidators to make an application to the Court for an order requiring a person to make restitution to Torque if they commit one of the following offences:

- Retention or misapplication of money or other assets of Torque by an officer of Torque or a person closely connected to the formation of, or management of Torque;
- Any person knowingly carrying on the business with intent to defraud the creditors or for any fraudulent purpose; or
- A current or former director of Torque who continued trading knowing the Company was insolvent with no reasonable prospect to avoid going into insolvent liquidation.

To assist in their investigations, the Provisional Liquidators can make an application under section 284 of the Act to examine a party before the Court. This includes, among others:

- Current or former officers of Torque;
- Current or former members of Torque;
- A person involved with the promotion or formation of Torque;
- A person currently employed (or previously employed within the relevant period) by Torque;
- Any person considered to be capable of giving information concerning Torque; or
- Any person known or suspected to hold assets of Torque or be indebted to Torque.

An examinee is examined under oath and is required to answer all questions the Court may ask or allow to be asked. A defence of possible incrimination by answering a question is not permitted under the Act.

Additionally, under Part VIII of the Act, the liquidators can review any transaction falling within the relevant vulnerability period (“Vulnerability Period”) to determine if it is a voidable transaction and the asset is potentially recoverable for the benefit of creditors. Voidable transactions include, among others:

- Unfair preference payments; and
- Undervalue transactions.

The Vulnerability Period is 2 years before the Liquidation appointment date for Connected Persons (related parties), otherwise 6 months before the Liquidation appointment date.

The Provisional Liquidators' prospects of successfully recovering funds for creditors using the above legal claims will be considered as the investigation progresses and further information is obtained.

**G. Common Questions and Answers**

The Provisional Liquidators have received thousands of queries from customers in respect of Torque. As set out in the 1<sup>st</sup> Circular, the Provisional Liquidators will endeavour to update Torque customers and address any queries submitted as regularly as possible. However due to the number of customers and volume of queries, responding to all customer queries individually is not feasible or economical.

The Provisional Liquidators' answers to individual customer queries will be consolidated and issued to all creditors and customers in regular updates ("Circulars") issued by email or posted on Borrelli Walsh's website (<https://www.borrelliwalsh.com/creditors/>).

Please find enclosed an Investor Questions and Answers ("Investor Q&A") document that addresses the common queries received in the first week of the Provisional Liquidation of Torque.

For any urgent customer, creditor and media enquiries, please contact the Provisional Liquidators at: [torque@borrelliwalsh.com](mailto:torque@borrelliwalsh.com).

Sincerely,



Philip Smith  
Joint Provisional Liquidator  
Torque Group Holdings Limited  
(In Provisional Liquidation)

Investor Q&A

No.	Category	Question	Answer
1	Claims	When can I get my money back?	<p>Torque has entered Provisional Liquidation and all Torque user accounts will remain frozen for the foreseeable future.</p> <p>The Provisional Liquidators are not legally capable of repaying any Torque customers until they have properly verified all 14,000 customer claims and completed at least their preliminary investigations and the BVI Court directs distributions to be made. Given the number of customers and the complexity of Torque's business, these processes will be challenging.</p> <p>The Provisional Liquidators aim to provide an estimated timeline for securing / realising Torque's cryptocurrency assets and verifying creditor claims in coming weeks.</p> <p>In the event that no further assets can be recovered by the Provisional Liquidators from related parties or third parties, a nominal distribution to creditors may be possible during 2021.</p> <p>However, in the event that the Provisional Liquidators investigations identify legal claims and assets to recovery from related or third parties that increase the return to creditors, this will involve litigation across multiple jurisdictions and take more time.</p> <p>At this stage, it is too early to determine the timing and quantum of any distribution to creditors.</p> <p>Regular updates ("Circulars") will be sent via email and uploaded on to Borrelli Walsh's website (<a href="https://www.borrelliwalsh.com/creditors/">https://www.borrelliwalsh.com/creditors/</a>)</p>
2	Claims	What do I need to do to get my money back?	
3	Claims	Can I withdraw my investment now?	
4	Claims	Can I still recover my money?	
5	Claims	What information do you need to speed up my refund?	
6	Claims	Is there a repayment scheme?	
7	Claims	Are there any forms to fill in to recover my money?	
8	Claims	How much are we expecting to get back from the liquidation?	
9	Claims	Why can't I access or recover money from my personal wallet?	
10	Claims	Torque management has promised to repay all deposits from 8 and 9 February 2021.	
11	Future Updates	What do I do now?	
12	Future Updates	Where will we receive updates from now on?	
13	Future Updates	Do you have updates on the company?	



14	Future Updates	How do I sign up for the mailing updates on the recovery process?	If you have not received the Circular via email, please contact us via <a href="mailto:torque@borrelliwalsh.com">torque@borrelliwalsh.com</a> to be added into the mailing list.
15	Liquidation	What does a liquidation mean?	<p>A company is placed in liquidation when it is insolvent or when the Court determines it is just and equitable for the company to be placed into liquidation.</p> <p>Refer to section 2) of the 2<sup>nd</sup> Circular for the role and obligations of liquidators.</p>
16	Liquidation	Why is my money from Torque being used to pay liquidator fees?	<p>At this stage, the Provisional Liquidators have not used any of the Torque's Crypto Assets to pay liquidators' fees.</p> <p>However, as a matter of BVI Insolvency Law, liquidators are typically allowed to use company assets in order to pay their liquidation fees and expenses with the approval of the Court or a company's creditors.</p> <p>This is a necessary mechanism to allow an independent party who acts for the benefit of all creditors to undertake the work necessary to collect a company's assets, investigate and pursue claims and distribute recoveries to creditors.</p>
17	Liquidation	How long will this process take?	<p>It is too early to determine how long the liquidation of Torque will take to complete. A liquidation of this size and complexity, that will likely involve substantial litigation and asset recovery work across multiple jurisdictions, will not be a short process.</p> <p>The Provisional Liquidators will provide an estimated timeline for securing / realising Torque's Crypto Assets and verifying creditor claims as soon as practical and appropriate.</p> <p>Regular updates ("Circulars") will be sent via email and uploaded on to Borrelli Walsh's website (<a href="https://www.borrelliwalsh.com/creditors/">https://www.borrelliwalsh.com/creditors/</a>)</p>

18	Investigations	Is this some kind of scam?	Refer to 'Section F. Preliminary Investigations' of our 2 <sup>nd</sup> Circular.
19	Investigation	Is there any action being taken against the offending former employee?	
20	Trading	Will the company start trading again?	<p>Torque ceased trading immediately on the appointment of the Provisional liquidators.</p> <p>On the basis that Torque is clearly insolvent (creditor claims greatly exceed assets), it will not likely ever recommence trading.</p>



IN THE EASTERN CARIBBEAN SUPREME COURT  
IN THE HIGH COURT OF JUSTICE  
VIRGIN ISLANDS  
COMMERCIAL DIVISION  
CLAIM NO. BVIHC (COM) 2021/0031

Submitted Date:03/03/2021 09:56

Filed Date:03/03/2021 09:56

Fees Paid:72.59

IN THE MATTER OF THE INSOLVENCY ACT 2003  
AND IN THE MATTER OF TORQUE GROUP HOLDINGS LIMITED

BETWEEN:

BERNARD ONG HOCK FONG

Applicant

And

TORQUE GROUP HOLDINGS LIMITED

Respondent

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ORDER

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BEFORE: The Honourable Mr. Justice Wallbank (A.g.)

DATE: 2 March 2021

ENTERED: 4 March 2021

UPON THE ORDINARY APPLICATION OF Bernard Ong Hock Fong (the "Applicant") dated 26 February 2021 to appoint joint provisional liquidators over Torque Group Holdings Limited (the "Company") pursuant to subsection 170(1) and paragraph 170(2)(d) of the Insolvency Act, 2003

AND UPON READING the Affidavit of Bernard Ong Hock Fong dated 26 February 2021, filed in support of the Ordinary Application, with Exhibit BOHF-1 thereto

AND UPON HEARING Brian Child and Rachael Stitt of Campbells, Counsel for the Applicant

IT IS HEREBY ORDERED THAT:

1. The Applicant, as member of the Company, is hereby granted leave to make the Application for the appointment of joint provisional liquidators over the Company.

2. Philip Smith, of Borrelli Walsh, 3rd Floor Commerce House, P.O. Box 3339, Road Town, Tortola, British Virgin Islands VG 1110 and Jason Kardachi of Borrelli Walsh, #10-62, 1 Raffles Place Tower 2, Singapore 048616 be appointed joint provisional liquidators (together, the “Joint Provisional Liquidators”) of the Company.
3. The requirement of 14 days’ notice of the Application for the appointment of the Joint Provisional Liquidators be dispensed with pursuant to Rule 17(3)(a) of the Insolvency Rules, 2005.
4. The Joint Provisional Liquidators be given the powers set out under the Insolvency Act, 2003 (the “Act”), in particular the powers in section 186 and Schedule 2 of the Act, as set out in the Annex to this Order with the specific additional provisions that:
  - a. the Joint Provisional Liquidators may commence proceedings in any jurisdiction in which they reasonably believe assets of the Company may be located or in which they reasonably believe information leading to locating assets of the Company may be obtained; and
  - b. the Joint Provisional Liquidators may seek recognition of their appointment as joint liquidators in any jurisdiction in which they reasonably believe assets of the Company may be located or in which they reasonably believe information leading to locating assets of the Company may be obtained;
5. The Joint Provisional Liquidators and the Applicant are not required to provide any security deposit for the appointment of the Joint Provisional Liquidators.
6. The costs of and occasioned by this Application be reserved to the hearing of the Originating Application.
7. The proper fees and disbursements of the Joint Provisional Liquidators be paid from the assets of the Company, to be paid in accordance with the prescribed priority if joint liquidators are subsequently appointed.
8. There be permission to apply.
9. Pending approval of the appointment of Jason Kardachi by the BVI Financial Services Commission, the Applicant shall obtain the consent of the Company to the appointment of Jason Kardachi as one of the Joint Provisional Liquidators of the Company. Absent subsequent approval by the BVI Financial Services Corporation of Mr Kardachi’s qualification to be appointed, such consent shall be a condition for any consequential appointment of the Joint Provisional Liquidators as joint liquidators of the Company.

10. The hearing of the Originating Application to appoint Philip Smith and Jason Kardachi as Joint Liquidators of the Company to be listed on the first available date.

11. These proceedings be hereby sealed until further order of the Court.

BY ORDER OF THE COURT



REGISTRAR Dep.



## **ANNEX**

### **SCHEDULE 2**

(Section 186 Insolvency Act, 2003)

1. Power to pay any class of creditors in full.
2. Power to make a compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging that they have any claim against the company, whether present or future, certain or contingent, ascertained or not.
3. Power to compromise, on such terms as may be agreed
  - (a) calls and liabilities to calls, debts and liabilities capable of resulting in debts, and claims, whether present or future, certain or contingent, ascertained or not, subsisting or supposed to subsist between the company and any person; and
  - (b) questions in any way relating to or affecting the assets or the liquidation of the company; and take security for the discharge of any such call, debt, liability or claim and give a complete discharge in respect of it.
4. Power to commence, continue, discontinue or defend any action or other legal proceedings in the name and on behalf of the company including, without limiting the foregoing, the power to:
  - (a) commence proceedings in any jurisdiction in which they reasonably believe assets of the Company may be located or in which they reasonably believe information leading to locating assets of the Company may be obtained; and
  - (b) seek recognition of their appointment as joint liquidators in any jurisdiction in which they reasonably believe assets of the Company may be located or in which they reasonably believe information leading to locating assets of the Company may be obtained;
5. Power to carry on the business of the company so far as may be necessary for its beneficial liquidation.
6. Power to sell or otherwise dispose of property of the company.
7. Power to do all acts and execute, in the name and on behalf of the company, any deeds, receipts or other document.
8. Power to use the company's seal.

9. Power to prove, rank and claim in the bankruptcy, liquidation, insolvency or sequestration of any member or past member for any balance against his estate, and to receive dividends, in the bankruptcy, liquidation, insolvency, sequestration or in respect of that balance, as a separate debt due from the bankrupt or insolvent, and rateably with the other separate creditors.

10. Power to draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the company with the same effect with respect to the company's liability as if the bill or note had been drawn, accepted, made or indorsed by or on behalf of the company in the course of its business.

11. Power to borrow money, whether on the security of the assets of the company or otherwise.

12. Power to take out in his official name letters of administration to any deceased member or past member or debtor, and to do any other act necessary for obtaining payment of any money due from a member or past member or debtor, or his estate, that cannot conveniently be done in the name of the company.

For the purpose of enabling the liquidator to take out letters of administration or do any other act under this paragraph, to be due to the liquidator himself.

13. Power to call meetings of creditors or members for

- (a) the purpose of informing creditors or members concerning the progress of or matters arising in the liquidation;
- (b) the purpose of ascertaining the views of creditors or members on any matter arising in the liquidation; or
- (c) such other purpose connected with the liquidation as the liquidator considers fit.

14. Power to appoint a solicitor, accountant or other professionally qualified person to assist him in the performance of his duties.

15. Power to appoint an agent to do any business that the liquidator is unable to do himself, or which can be more conveniently done by an agent.

IN THE EASTERN CARIBBEAN SUPREME COURT  
IN THE HIGH COURT OF JUSTICE  
VIRGIN ISLANDS  
COMMERCIAL DIVISION  
CLAIM NO. BVIHC (COM) 2021/0031

IN THE MATTER OF THE INSOLVENCY ACT, 2003  
AND IN THE MATTER OF TORQUE GROUP  
HOLDINGS LIMITED

BETWEEN:

**BERNARD ONG HOCK FONG**

**Applicant**

And

**TORQUE GROUP HOLDINGS LIMITED**

**Respondent**

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**ORDER**

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**Campbells**  
Floor 4, Banco Popular Building,  
Road Town, Tortola, VG1110,  
British Virgin Islands  
Tel: +1 284 494 2423  
Reference:  
**Legal Practitioners for the Applicant**