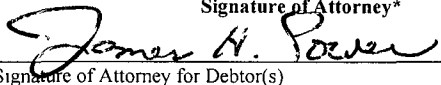


UNITED STATES BANKRUPTCY COURT Southern District of New York					VOLUNTARY PETITION					
Name of Debtor (if individual, enter Last, First, Middle): Lawndale Group S.A.					Name of Joint Debtor (Spouse) (Last, First, Middle):					
All Other Names used by the Debtor in the last 8 years (include married, maiden, and trade names):					All Other Names used by the Joint Debtor in the last 8 years (include married, maiden, and trade names):					
Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN)/Complete EIN (if more than one, state all):					Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN)/Complete EIN (if more than one, state all):					
Street Address of Debtor (No. and Street, City, and State): c/o John Ayres, PricewaterhouseCoopers, Level 2 Palm Grove House, Wickhams Cay, Road Town, Tortola, VG1110, British Virgin Islands <div style="text-align: right;">ZIP CODE</div>					Street Address of Joint Debtor (No. and Street, City, and State): <div style="text-align: right;">ZIP CODE</div>					
County of Residence or of the Principal Place of Business: British Virgin Islands					County of Residence or of the Principal Place of Business:					
Mailing Address of Debtor (if different from street address): Vanterpool Plaza, P.O. Box 873, Wickhams Cay 1, Road Town, Tortola, British Virgin Islands. <div style="text-align: right;">ZIP CODE</div>					Mailing Address of Joint Debtor (if different from street address): <div style="text-align: right;">ZIP CODE</div>					
Location of Principal Assets of Business Debtor (if different from street address above): <div style="text-align: right;">ZIP CODE</div>										
Type of Debtor (Form of Organization) (Check one box.) <input type="checkbox"/> Individual (includes Joint Debtors) <i>See Exhibit D on page 2 of this form.</i> <input checked="" type="checkbox"/> Corporation (includes LLC and LLP) <input type="checkbox"/> Partnership <input type="checkbox"/> Other (If debtor is not one of the above entities, check this box and state type of entity below.)		Nature of Business (Check one box.) <input type="checkbox"/> Health Care Business <input type="checkbox"/> Single Asset Real Estate as defined in 11 U.S.C. § 101(51B) <input type="checkbox"/> Railroad <input type="checkbox"/> Stockbroker <input type="checkbox"/> Commodity Broker <input type="checkbox"/> Clearing Bank <input checked="" type="checkbox"/> Other			Chapter of Bankruptcy Code Under Which the Petition is Filed (Check one box.) <input type="checkbox"/> Chapter 7 <input type="checkbox"/> Chapter 9 <input type="checkbox"/> Chapter 11 <input type="checkbox"/> Chapter 12 <input type="checkbox"/> Chapter 13 <input checked="" type="checkbox"/> Chapter 15 Petition for Recognition of a Foreign Main Proceeding <input type="checkbox"/> Chapter 15 Petition for Recognition of a Foreign Nonmain Proceeding					
Chapter 15 Debtors Country of debtor's center of main interests: British Virgin Islands Each country in which a foreign proceeding by, regarding, or against debtor is pending: British Virgin Islands		Tax-Exempt Entity (Check box, if applicable.) <input type="checkbox"/> Debtor is a tax-exempt organization under title 26 of the United States Code (the Internal Revenue Code).			Nature of Debts (Check one box.) <input type="checkbox"/> Debts are primarily consumer debts, defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose." <input checked="" type="checkbox"/> Debts are primarily business debts.					
Filing Fee (Check one box.) <input checked="" type="checkbox"/> Full Filing Fee attached. <input type="checkbox"/> Filing Fee to be paid in installments (applicable to individuals only). Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form 3A. <input type="checkbox"/> Filing Fee waiver requested (applicable to chapter 7 individuals only). Must attach signed application for the court's consideration. See Official Form 3B.					Chapter 11 Debtors Check one box: <input type="checkbox"/> Debtor is a small business debtor as defined in 11 U.S.C. § 101(51D). <input type="checkbox"/> Debtor is not a small business debtor as defined in 11 U.S.C. § 101(51D). Check if: <input type="checkbox"/> Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,490,925 (amount subject to adjustment on 4/01/16 and every three years thereafter). ----- Check all applicable boxes: <input type="checkbox"/> A plan is being filed with this petition. <input type="checkbox"/> Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).					
Statistical/Administrative Information <input checked="" type="checkbox"/> Debtor estimates that funds will be available for distribution to unsecured creditors. <input type="checkbox"/> Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.										THIS SPACE IS FOR COURT USE ONLY
Estimated Number of Creditors <input checked="" type="checkbox"/> 1-49 <input type="checkbox"/> 50-99 <input type="checkbox"/> 100-199 <input type="checkbox"/> 200-999 <input type="checkbox"/> 1,000-5,000 <input type="checkbox"/> 5,001-10,000 <input type="checkbox"/> 10,001-25,000 <input type="checkbox"/> 25,001-50,000 <input type="checkbox"/> 50,001-100,000 <input type="checkbox"/> Over 100,000										
Estimated Assets <input type="checkbox"/> \$0 to \$50,000 <input type="checkbox"/> \$50,001 to \$100,000 <input checked="" type="checkbox"/> \$100,001 to \$500,000 <input type="checkbox"/> \$500,001 to \$1 million <input type="checkbox"/> \$1,000,001 to \$10 million <input type="checkbox"/> \$10,000,001 to \$50 million <input type="checkbox"/> \$50,000,001 to \$100 million <input type="checkbox"/> \$100,000,001 to \$500 million <input type="checkbox"/> \$500,000,001 to \$1 billion <input type="checkbox"/> More than \$1 billion										
Estimated Liabilities <input type="checkbox"/> \$0 to \$50,000 <input type="checkbox"/> \$50,001 to \$100,000 <input type="checkbox"/> \$100,001 to \$500,000 <input type="checkbox"/> \$500,001 to \$1 million <input type="checkbox"/> \$1,000,001 to \$10 million <input checked="" type="checkbox"/> \$10,000,001 to \$50 million <input type="checkbox"/> \$50,000,001 to \$100 million <input type="checkbox"/> \$100,000,001 to \$500 million <input type="checkbox"/> \$500,000,001 to \$1 billion <input type="checkbox"/> More than \$1 billion										

Voluntary Petition <i>(This page must be completed and filed in every case)</i>		Name of Debtor(s) Lawndale Group S.A.	
All Prior Bankruptcy Cases Filed Within Last 8 Years (If more than two, attach additional sheet)			
Location Where Filed	Case Number	Date Filed	
Location Where Filed	Case Number	Date Filed	
Pending Bankruptcy Case Filed by any Spouse, Partner, or Affiliate of this Debtor (If more than one, attach additional sheet)			
Name of Debtor	Case Number	Date Filed	
District	Relationship	Judge	
<p style="text-align: center;">Exhibit A</p> <p>(To be completed if debtor is required to file periodic reports (e.g., forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11)</p> <p><input type="checkbox"/> Exhibit A is attached and made a part of this petition</p>		<p style="text-align: center;">Exhibit B</p> <p>(To be completed if debtor is an individual whose debts are primarily consumer debts)</p> <p>I, the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that [he or she] may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each such chapter. I further certify that I have delivered to the debtor the notice required by 11 U.S.C. § 342(b).</p> <p>X _____ Signature of Attorney for Debtor(s) (Date)</p>	
Exhibit C			
Does the debtor own or have possession of any property that poses or is alleged to pose a threat of imminent and identifiable harm to public health or safety?			
<input type="checkbox"/> Yes, and Exhibit C is attached and made a part of this petition			
<input checked="" type="checkbox"/> No			
Exhibit D			
(To be completed by every individual debtor. If a joint petition is filed, each spouse must complete and attach a separate Exhibit D)			
<input type="checkbox"/> Exhibit D, completed and signed by the debtor, is attached and made a part of this petition			
If this is a joint petition			
<input type="checkbox"/> Exhibit D, also completed and signed by the joint debtor, is attached and made a part of this petition			
Information Regarding the Debtor - Venue (Check any applicable box)			
<input type="checkbox"/> Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District			
<input type="checkbox"/> There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District			
<input checked="" type="checkbox"/> Debtor is a debtor in a foreign proceeding and has its principal place of business or principal assets in the United States in this District, or has no principal place of business or assets in the United States but is a defendant in an action or proceeding [in a federal or state court] in this District, or the interests of the parties will be served in regard to the relief sought in this District			
Certification by a Debtor Who Resides as a Tenant of Residential Property (Check all applicable boxes)			
<input type="checkbox"/> Landlord has a judgment against the debtor for possession of debtor's residence (If box checked, complete the following)			

(Name of landlord that obtained judgment)			

(Address of landlord)			
<input type="checkbox"/> Debtor claims that under applicable nonbankruptcy law, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after the judgment for possession was entered, and			
<input type="checkbox"/> Debtor has included with this petition the deposit with the court of any rent that would become due during the 30-day period after the filing of the petition			
<input type="checkbox"/> Debtor certifies that he/she has served the Landlord with this certification (11 U.S.C. § 362(l))			

<p>Voluntary Petition (This page must be completed and filed in every case.)</p>	<p>Name of Debtor(s) Lawndale Group S A</p>
Signatures	
<p style="text-align: center;">Signature(s) of Debtor(s) (Individual/Joint)</p> <p>I declare under penalty of perjury that the information provided in this petition is true and correct [If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7] I am aware that I may proceed under chapter 7, 11, 12 or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7 [If no attorney represents me and no bankruptcy petition preparer signs the petition] I have obtained and read the notice required by 11 U.S.C. § 342(b)</p> <p>I request relief in accordance with the chapter of title 11, United States Code, specified in this petition</p> <p>X _____ Signature of Debtor</p> <p>X _____ Signature of Joint Debtor</p> <p>_____ Telephone Number (if not represented by attorney)</p> <p>_____ Date</p>	<p style="text-align: center;">Signature of a Foreign Representative</p> <p>I declare under penalty of perjury that the information provided in this petition is true and correct, that I am the foreign representative of a debtor in a foreign proceeding, and that I am authorized to file this petition</p> <p>(Check only one box)</p> <p><input checked="" type="checkbox"/> I request relief in accordance with chapter 15 of title 11, United States Code. Certified copies of the documents required by 11 U.S.C. § 1515 are attached</p> <p><input type="checkbox"/> Pursuant to 11 U.S.C. § 1511, I request relief in accordance with the chapter of title 11 specified in this petition. A certified copy of the order granting recognition of the foreign main proceeding is attached</p> <p>X <u>/S John David Ayres</u> (Signature of Foreign Representative)</p> <p><u>John David Ayres</u> (Printed Name of Foreign Representative)</p> <p><u>05/22/2015</u> Date</p>
<p>X  _____ Signature of Attorney for Debtor(s) <u>James H Power</u> Printed Name of Attorney for Debtor(s) <u>Holland & Knight LLP</u> Firm Name</p> <p><u>31 West 52nd Street, 12th Floor</u> <u>New York, NY 10019</u> Address</p> <p><u>(212) 513-3494</u> Telephone Number</p> <p><u>05/22/2015</u> Date</p> <p>*In a case in which § 707(b)(4)(D) applies, this signature also constitutes a certification that the attorney has no knowledge after an inquiry that the information in the schedules is incorrect</p>	<p style="text-align: center;">Signature of Non-Attorney Bankruptcy Petition Preparer</p> <p>I declare under penalty of perjury that (1) I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110, (2) I prepared this document for compensation and have provided the debtor with a copy of this document and the notices and information required under 11 U.S.C. §§ 110(b), 110(h), and 342(b), and, (3) if rules or guidelines have been promulgated pursuant to 11 U.S.C. § 110(h) setting a maximum fee for services chargeable by bankruptcy petition preparers, I have given the debtor notice of the maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor, as required in that section. Official Form 19 is attached</p> <p>_____ Printed Name and title, if any, of Bankruptcy Petition Preparer</p> <p>_____ Social-Security number (If the bankruptcy petition preparer is not an individual, state the Social-Security number of the officer, principal, responsible person or partner of the bankruptcy petition preparer) (Required by 11 U.S.C. § 110)</p> <p>_____ Address</p> <p>X _____ Signature</p> <p>_____ Date</p> <p>Signature of bankruptcy petition preparer or officer, principal, responsible person, or partner whose Social-Security number is provided above</p> <p>Names and Social-Security numbers of all other individuals who prepared or assisted in preparing this document unless the bankruptcy petition preparer is not an individual</p> <p>If more than one person prepared this document, attach additional sheets conforming to the appropriate official form for each person</p> <p><i>A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both 11 USC § 110, 18 USC § 156</i></p>
<p style="text-align: center;">Signature of Debtor (Corporation/Partnership)</p> <p>I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor</p> <p>The debtor requests the relief in accordance with the chapter of title 11, United States Code, specified in this petition</p> <p>X _____ Signature of Authorized Individual</p> <p>_____ Printed Name of Authorized Individual</p> <p>_____ Title of Authorized Individual</p> <p>_____ Date</p>	

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Counsel for Lawndale Group S.A. (In Liquidation)

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
In re: : Chapter 15
: :
: Case No. 15- _____ ()
LAWNDALE GROUP S.A., :
: :
Debtor in a :
Foreign Proceeding. :
: :
: :
-----X

**VERIFIED PETITION FOR RECOGNITION OF FOREIGN INSOLVENCY
PROCEEDING AND APPLICATION FOR RELIEF PURSUANT TO SECTIONS
1504, 1507, 1509, 1515, 1517, 1520 AND 1521 OF THE BANKRUPTCY CODE**

1. John David Ayres (hereafter referred to as "**John Ayres**"), duly appointed liquidator and foreign representative ("**Petitioner**" or "**Liquidator**") of Lawndale Group S.A. ("**Lawndale**" or the "**Foreign Debtor**"), a company undergoing liquidation before the Commercial Division of the High Court of Justice, British Virgin Islands (the "**BVI Court**"), claim number 2013/0165 (the "**BVI Liquidation**"), pursuant to the Insolvency Act of 2003 of

the British Virgin Islands (the "**2003 Act**"),¹ by its undersigned United States counsel, Holland & Knight LLP, respectfully submits the Official Form Petition, this Verified Petition (together, this "**Petition**"), the accompanying Declaration of John Ayres, executed on May 19, 2015 (the "**Ayres Declaration**"), the Declaration of Robert Christie, executed on May 18, 2015 (the "**Christie Declaration**"), and the Declaration of Michael J. Frevola, executed on May 21, 2015 (the "**Frevola Declaration**"), for entry of an Order pursuant to chapter 15 of title 11 of the United States Code, 11 U.S.C. § 101 *et seq.* (the "**Bankruptcy Code**");

(i) recognizing the BVI Liquidation of Lawndale as a foreign main proceeding, or in the alternative, a foreign non-main proceeding, pursuant to chapter 15 of the Bankruptcy Code, and the Petitioner as Lawndale's foreign representative under sections 1509 and 1517 of the Bankruptcy Code;

(ii) granting automatic relief pursuant to section 1520 of the Bankruptcy Code;

(iii) granting other and additional relief pursuant to Sections 1507 and 1521(a) and (b) of the Bankruptcy Code, including authorizing Petitioner to examine witnesses, take evidence, and seek the production of documents concerning the assets, affairs, rights, obligations or liabilities of Lawndale by:

- a. issuing discovery requests regarding the affairs of Lawndale, the United States Counterparties (defined below), and the Related Persons and Entities (defined below), as all such information is required in the BVI Liquidation;
- b. issuing discovery requests to intermediary or correspondent banks located in the Southern District of New York that process United States Dollar wire transfers and maintain records of such transfers to ascertain the location and movement of

¹ Excerpts of the relevant provisions of the 2003 Act are attached as Ex. 2 to the Christie Declaration.

Lawndale's assets prior to and immediately after the commencement of the BVI Liquidation;

- c. Upon written request served by the Foreign Debtor, through its counsel Holland & Knight LLP, obtaining turnover of any and all documents, records, filings, or other information, however stored, including but not limited to emails, from any person or entity subject to this Court's jurisdiction, including but not limited to Lawndale's former legal advisors and Lawndale's related entities; and
- d. Upon written request served by the Foreign Debtor, through its counsel Holland & Knight LLP, enjoining all persons and entities subject to the jurisdiction of this Court from destroying, secreting, altering, deleting or otherwise disposing of any documents, records, filings, or other information, however stored, concerning or relating to the affairs of Lawndale; and

(iv) granting authority to assert claims against parties that are subject to jurisdiction in the United States, including but not limited to claims predicated upon schemes to commit fraudulent conveyances, alter ego, or veil-piercing claims.

PRELIMINARY STATEMENT

2. This Court previously has noted that "[u]nique to the Bankruptcy Code," chapter 15 contains a statement of purpose: "to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency" *In re Bear Stearns High-Grade Structured Credit Strategies Master Fund, Ltd.*, 374 B.R. 122, 126 (Bankr. S.D.N.Y. 2007) (quoting 11 U.S.C. § 1501), *aff'd*, 389 B.R. 325 (S.D.N.Y. 2008). Among the express objectives of chapter 15 is to promote the "fair and efficient administration of

cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor." 11 U.S.C. § 1501(a)(3).

3. Petitioner requests recognition of the BVI Liquidation as a foreign main proceeding primarily to obtain this Court's assistance in obtaining critical discovery from entities subject to the jurisdiction of this Court. Petitioner principally seeks discovery of third party, as well as Foreign Debtor's own, records from banks that are located within and subject to the jurisdiction of this Court. Lawndale principally transacted business in United States Dollars, which transactions cleared through intermediary or correspondent banks in this judicial District. These banks maintain the records of these wire transfer transactions and those records are critical for Petitioner to gain an understanding of where Lawndale's assets and funds were distributed prior to the commencement of the BVI Liquidation.

4. As this Petition, accompanying Declarations and the exhibits thereto demonstrate, the BVI Liquidation should be properly recognized as a foreign main proceeding. In the event that the BVI Liquidation is recognized as a non-main proceeding, this Court has the discretion to order whatever protections and relief it deems appropriate pursuant to sections 1507 and 1521 of the Bankruptcy Code - including the requested discovery relief.

5. Petitioner seeks precisely the type of relief that chapter 15 was designed to provide, and the BVI Liquidation and this Petition meet all the requirements for recognition and the requested relief. In particular, Petitioner was appointed by the BVI Court to administer Lawndale's assets, liabilities, and any ongoing business in connection with the court-ordered BVI Liquidation of Lawndale pursuant to the 2003 Act, a law relating to insolvency or adjustment of debt.

6. Likewise, the BVI Liquidation is a collective judicial proceeding, subject to the direct control of the BVI Court, encompassing all creditors and stakeholders of Lawndale, pending in the British Virgin Islands (the "BVI"), the foreign country in which the Foreign Debtor was incorporated, maintained its registered office, maintains its center of main interests, and where Petitioner is engaged in non-transient economic activity.

7. Pursuant to section 1516(c) of the Bankruptcy Code, the BVI is presumed to be Lawndale's center of main interests because Lawndale was incorporated there and maintains its registered office there. This Petition and the accompanying Declarations further demonstrate that Lawndale's counterparties and creditors had clear and actual knowledge that Lawndale was a BVI entity. Since the commencement of the BVI Liquidation, the BVI is the obvious and demonstrable "nerve center" of Lawndale's ongoing liquidation. Hence, the BVI Liquidation is a "foreign main proceeding" within the meaning of sections 101(23), 1502(4), 1516(c), and 1517(b)(1) of the Bankruptcy Code.

8. This Court has entered multiple orders recognizing similar liquidation proceedings of BVI entities as foreign main proceedings. *See In re Fairfield Sentry Ltd.*, 440 B.R. 60 (Bankr. S.D.N.Y. 2010) (recognizing the BVI liquidations of various BVI financial entities as foreign main proceedings upon the application of the joint liquidators of those entities), *aff'd*, 714 F.3d 127 (2d Cir. 2013); *In re Pioneer Freight Futures*, No. 13-12324 (Bankr. S.D.N.Y. Aug. 23, 2013) (recognizing BVI liquidation proceeding); *In re Transfield ER Cape Ltd.*, No. 10-106270 (MG) (Bankr. S.D.N.Y. Jan. 13, 2011); *see also In re British American Isle of Venice (BVI), Ltd.*, 441 B.R. 713 (Bankr. S.D. Fla. 2010); *In re Grand Prix Assocs., Inc.*, No. 09-16545 (DHS), 2009 WL 1410519 (Bankr. D.N.J. May 18, 2009) (recognizing BVI liquidation as foreign main proceeding); *In re Saad Invs. Fin. Co. (No. 5) Ltd.*,

No. 09-13985 (KG) (Bankr. D. Del. Dec. 17, 2009) (recognizing Cayman Islands liquidation as foreign main proceeding).

9. Petitioner maintains tangible and intangible assets in the United States and in this District.

10. For all of these reasons and as will be shown below, Petitioner respectfully submits that: (i) recognition of the BVI Liquidation would not be contrary to public policy under Bankruptcy Code Section 1506; (ii) the BVI Liquidation is a foreign main proceeding within the meaning of Sections 101(23) and 1502(4) of the Bankruptcy Code; (iii) Petitioner is a duly appointed foreign representative of Lawndale within the meaning of Section 101(24); and (iv) Petitioner and the Petition comply with all the requirements of Section 1515 and Bankruptcy Rule 1007(a)(4).

11. Under the circumstances, this Court should enter an order recognizing the BVI Liquidation as a foreign main proceeding under section 1517(b)(1), or in the alternative, as a foreign non-main proceeding under section 1517(b)(2) of the Bankruptcy Code, and granting appropriate relief as set forth in sections 1507, 1520 and 1521 of the Bankruptcy Code.

JURISDICTION AND VENUE

12. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, and sections 109 and 1501 of the Bankruptcy Code.

13. Venue of this proceeding is proper in this judicial district pursuant to 28 U.S.C. § 1410(3) because Lawndale has property in the United States and within this judicial district.

14. Lawndale satisfies 11 U.S.C. § 109(a)'s property requirement. *In re Barnett*, 737 F.3d 238 (2d Cir. 2013).

15. Lawndale has intangible assets in New York in the form of potential claims and causes of action. *See In re Octaviar Administration Pty Ltd.*, 511 B.R. 361, 370-71 (Bankr. S.D.N.Y. 2014). Additionally, Lawndale currently maintains tangible assets in New York. *See id.* at 373. Moreover, entities from which Petitioner will be seeking discovery are subject to jurisdiction in this judicial district.

16. This is a core foreign proceeding under 28 U.S.C. § 157(b)(2)(P).

FACTUAL BACKGROUND

Lawndale's Business

17. On September 23, 2004, Lawndale was formed under the laws of the British Virgin Islands. Ayres Decl. ¶ 11. At all material times, Lawndale maintained its registered office at Vanterpool Plaza, P.O. Box 873, Wickhams Cay 1, Road Town, Tortola, British Islands. Ayres Decl. ¶ 12.

18. Prior to its liquidation, Lawndale specialized in the oil trading business. Ayres Decl. ¶ 13. Specifically, Lawndale engaged in the trading and provision of marine fuel, which is referred to in the maritime industry as "bunker fuel" or "bunkers". Ayres Decl. ¶ 14. In addition to the trading and provision of bunker fuel, Lawndale appears to have attempted to enter the business of owning vessels. Ayres Decl. ¶ 15.

19. On July 24, 2008, Lawndale entered into a Memorandum of Agreement for the purchase of the *M/V ALKIVIADIS* for a total purchase price of \$54,250,000. Ayres Decl. ¶ 16. Also on July 24, 2008, Lawndale entered into a separate Memorandum of Agreement for the purchase of the *M/V ARISTIDIS* for a total purchase price of \$54,250,000. Ayres Decl. ¶ 17. Lawndale's breach of these two Memoranda of Agreement and the subsequent arbitral awards,

with a collective principal amount of \$7.5 million, issued against Lawndale form the principal basis of the BVI Liquidation. Ayres Decl. ¶ 18.

20. As of December 20, 2013, the commencement of the BVI Liquidation, and as of the date of this Application, Lawndale was and currently is insolvent on a cash flow and balance sheet basis. Ayres Decl. ¶ 19.

21. In addition to the assets described in paragraph 15 above, Lawndale presently maintains liquid assets of approximately \$2,300 in a bank account in the BVI. Lawndale's liabilities are far in excess of its current assets. John Ayres' staff has preliminarily investigated these known assets and liabilities. Ayres Decl. ¶ 20. Their investigation indicates that a portion of Lawndale's assets consist of potential claims against third parties and the remainder consists, *inter alia*, of a bank balance in the BVI under the Liquidator's control. Ayres Decl. ¶ 21.

The Lawndale BVI Liquidation and BVI Insolvency Law

22. On December 20, 2013, a creditor of Lawndale, Adrian Shipholding Inc. ("**Adrian**"), made an application to the BVI Court for an order under the 2003 Act placing Lawndale in liquidation and for the appointment of a Liquidator. Ayres Decl. ¶ 22. On January 20, 2014, the BVI Court directed that Lawndale be placed in Liquidation. *See* Ayres Decl. ¶ 23, Ex. 1 (the "**Liquidation Order**"). The Liquidation Order represents the "commencement of a foreign proceeding" as defined in 11 U.S.C. § 101(24).

23. As set forth in Section 184(1)(a) of the 2003 Act, a liquidator appointed under the 2003 Act is required to take possession of, protect and realize the assets of the company in liquidation, wherever they may be located, for the benefit of its creditors. Ayres Decl. ¶ 25.

24. Upon commencement of the BVI Litigation, John Ayres, as Liquidator, replaced Lawndale's previous directors and officers. Section 175 of the 2003 Act provides that, upon

commencement of a liquidation proceeding, "the directors and other officers of the company remain in office, but they cease to have any powers, functions or duties other than those required or permitted by [Part VI of the 2003 Act]." Ayres Decl. ¶ 26. In practice, aside from their residual power to contest the liquidation, the directors of Lawndale ceased to have any powers upon John Ayres appointment as Liquidator. Similarly, as Liquidator, John Ayres has been vested with the responsibility for the management of Lawndale, subject to BVI Court supervision. Ayres Decl. ¶ 27.

25. The BVI Liquidation is not for the benefit of any single creditor. Rather, it operates to resolve and determine the rights of all claimants and stakeholders vis-à-vis the Foreign Debtor. In this connection, Section 207 of the 2003 Act provides for the payment of classes of admitted claims and expenses in accordance with statutory priorities, and if the amount available for such claims is insufficient to pay claims in full, directs ratable payment by class. Any person or entity with a claim against Lawndale may assert such claim in the BVI Liquidation. Ayres Decl. ¶ 28.

26. The 2003 Act and the Liquidation Order together enumerate the Liquidator's powers, which is that the Liquidator is empowered to carry out all the functions and duties of a liquidator under the 2003 Act, including the power to:

- a. Pay any class of creditors in full.
- b. 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.
- c. Compromise, on such terms as may be agreed
 - i. 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

- ii. Questions in any way relating to or affecting the assets or the liquidation of the company;
 - iii. And take security for the discharge of any such call, debt, liability or claim and give a complete discharge in respect of it.
- d. Commence, continue, discontinue or defend any action or other legal proceedings in the name and on behalf of the company in the British Virgin Islands and elsewhere.
- e. Carry on the business of the company so far as may be necessary for its beneficial liquidation.
- f. Sell or otherwise dispose of property of the company.
- g. Do all acts and execute, in the name and on behalf of the company, any deeds, receipts or other document.
- h. Use the company's seal.
- i. 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.
- j. 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.
- k. Borrow money, whether on the security of the assets of the company or otherwise.
- l. 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.
- m. Call meetings of creditors or members for
 - i. The purpose of informing creditors or members concerning the progress of matters arising in the liquidation;
 - ii. The purpose of ascertaining views of creditors or members on any matter arising in the liquidation; or
 - iii. Such other purpose connected with the liquidation as the Liquidator considers fit.

- n. Appoint a solicitor, accountant or other professionally qualified person to assist him in the performance of his duties.
- o. Appoint an agent to do any business that the Liquidators are unable to do themselves, or which can be more conveniently done by an agent.
- p. Apply to the Court for directions concerning any matter arising out of the exercise of the above powers.
- q. Do all other things incidental to the exercise of the above functions and powers.

Ayres Decl. ¶ 29.

27. BVI Court approval must be sought before the Liquidator can exercise any of the first four powers (i.e., listed at paragraph 26 (a)-(d) above). *See generally*, Liquidation Order; 2003 Act §186(3). The other powers enumerated in the Liquidation Order may be exercised without specific, prior BVI Court approval, but are always subject to BVI Court review. Ayres Decl. ¶ 30. The powers of the Liquidator are broadly comparable to those of a trustee under Chapter 7 of the Bankruptcy Code. However, the Liquidator is further empowered to continue the operations of Lawndale as necessary, including the continuation of any legal actions. Ayres Decl. ¶ 31.

28. John Ayres possesses the statutory authority as Liquidator to petition the Courts of the United States of America in the name of the Liquidator for recognition of the BVI Liquidation and he further has the express authority pursuant to the specific order of the Honorable Mr. Justice Edward Bannister entered October 27, 2014, to bring proceedings in New York. Ayres Decl. ¶ 32. Specifically, on October 14, 2014, it was ordered by the BVI Court that "[t]here be sanction to bring proceedings in New York for the purpose of recognising the liquidation of Lawndale Group SA and obtaining discovery against and/or in relation to the affairs of the Company and its affiliates" (the "**BVI Court Foreign Recognition Order**"). Ayres Decl. ¶ 33.

The Post-Liquidation Activities Concerning Lawndale in the BVI

29. The Liquidation of Lawndale is taking place in the BVI. A significant proportion of the work to date relating to the liquidation (and post-liquidation activities) has been conducted in the BVI and all of the work is subject to the Liquidator's supervision, and, ultimately, the supervision of the BVI Court. Ayres Decl. ¶ 34.

30. First and foremost, the Liquidator and his BVI-based staff have been assessing the merits of Lawndale's and its creditors' potential claims, and gathering information on Lawndale's past operations. Ayres Decl. ¶ 35.

31. This investigation has focused on, but is not limited to, the two following aspects of Lawndale's business: first, its relationship and significant transactions with persons and entities in the United States or that otherwise utilize United States located bank accounts ("**United States Counterparties**"); and second, the relationship between Lawndale and various entities related to Lawndale via either agency, ownership, operational, and potentially alter-ego relationships ("**Related Persons and Entities**"). Ayres Decl. ¶ 36.

32. The United States Counterparties that the Liquidator has preliminarily identified include:

- a. Kristensons Petroleum USA
- b. Calista LLC
- c. World Fuel Services Corp.
- d. Tridex LLC
- e. Mikhail Kon
- f. Bunkers International Corp.
- g. Hillcroft Corp.
- h. Platt's USA / Platt's Receipts

- i. Fuel Trans Bunker Corp
- j. OV Limited
- k. Gianpro Trading Co.
- l. Oceanconnect.com
- m. Bersel Inc.
- n. Praxis Energy Agents LLC

Ayres Decl. ¶ 37.

33. Lawndale's relationship to each of the United States Counterparties was evidenced by United States dollar wire transfer records that were discovered by subpoenas issued in the previous action in the Southern District of New York, which is described in more detail below (the "**SDNY Action**"). Indeed, the wire transfer records revealed hundreds of high-value transactions between Lawndale and more than a dozen U.S.-based entities. Moreover, Lawndale regularly transferred money to an individual named Mikhail Kon, who appeared to be located in Illinois and have a bank account located in such jurisdiction. Additional limited information concerning Lawndale's dealings with the United States Counterparties was produced in the SDNY Action involving Lawndale. Ayres Decl. ¶ 38.

34. Additionally, the Liquidator and his staff have investigated the Related Persons and Entities that appear to have owned, operated, controlled acted as agent for and otherwise engaged in transactions with respect to Lawndale. Ayres Decl. ¶ 39.

35. These Related Persons and Entities include:

- a. Elias Marine Consultants Ltd., which appears to have made all communications on behalf of Lawndale to Lawndale's previous United States-based attorneys, Chalos & Co., P.C.;
- b. Avant Oil Services Ltd., a Finnish entity, which evidently acted as Lawndale's exclusive agent in respect of their primary business: entering marine fuel contracts on Lawndale's behalf;

- c. Proteas Management Ltd., which paid Lawndale's legal bills associated with the United States Litigation;
- d. Sintez Bunker, which acted as Lawndale's operational agent in Ukraine;
- e. JSC Eximnefteprodukt, which is believed to be the owner or beneficial owner of Lawndale, heavily participated in the vessel-purchase transactions underlying the creditors' claims;
- f. Mr. Mikhail Kon, who may have been Lawndale's employee in the United States and received wire transfers from Lawndale to his Illinois bank account;
- g. Mr. Alexey Maslikov, a primary actor in respect of Lawndale's attempted vessel purchase transaction, and Lawndale's 30(b)(6) deponent in the SDNY Action;
- h. Mr. Marios Theocharous, an apparent director of Lawndale, the gentlemen from whom Mr. Maslikov testified he received operating instructions, and a Lawndale declarant in the SDNY Action;
- i. Mr. A. Romanovski, an apparent managing director of Lawndale; and
- j. Mr. M. Kiperman, an apparent co-owner of Lawndale.

Ayres Decl. ¶ 40.

36. The Liquidator and his staff have been investigating Lawndale's business, the United States Counterparties, and the Related Persons and Entities from the Liquidator's offices that are located in the BVI. This investigation includes, among other things, a review of the material documents filed in the SDNY Action, the previously discovered wire transfer records discussed immediately above, and internal Lawndale emails to which the Liquidator has obtained access. Ayres Decl. ¶ 41.

37. The Liquidator and his staff's initial investigation has revealed that Lawndale may possess undervalue transfer claims against various parties, including some or all of the United States Counterparties. Ayres Decl. ¶ 42.

38. Furthermore, the Liquidator and his staff's initial investigation has revealed that Lawndale and/or its creditors may maintain alter-ego or veil-piercing claims against the Related

Persons and Entities. The Related Persons and Entities may be subject to jurisdiction in New York and litigation against them will likely be brought in New York's courts. Ayres Decl. ¶ 43.

39. The Liquidator plans to seek pre-litigation discovery regarding the Related Persons and Entities such that Lawndale may set forth a prima facie claim. Ayres Decl. ¶ 44.

40. The Liquidator has also been instructing U.S.-based counsel, Holland & Knight LLP, from the BVI. Ayres Decl. ¶ 45.

41. On June 2, 2014, a bank account was established in the BVI prior to this Petition and known assets of Lawndale from foreign locations around the world have been consolidated into this BVI-based account. Ayres Decl. ¶ 46.

42. Ongoing discussions with creditors Adrian and Atlantas Shipping Co. ("**Atlantas**") are being conducted from the BVI. Ayres Decl. ¶ 47.

43. The Liquidator has been made aware of one additional potential creditor, Joint Stock Company "Ukrtransnafta", Ukraine ("**Ukrtransnafta**"). On July 30, 2012, the BVI Court granted Ukrtransnafta's application to register and enforce in the BVI an arbitral award against Lawndale for over \$5.9 million. However, Ukrtransnafta has not filed a claim and no specific details of its potential claims been received. The three known creditors of Lawndale are located outside of the BVI, so facilities will be made available for overseas creditors to attend creditor meetings telephonically. Ayres Decl. ¶ 48.

44. At the appropriate time, the Liquidator intends to call meetings of Lawndale's creditors. These meetings will likely occur in the BVI, but could conceivably be held elsewhere if the creditors collectively so choose. To the extent such meetings are held in the BVI, it will be possible to participate telephonically for the convenience of creditors. Ayres Decl. ¶ 49.

The Actions Against, and Assets of, Lawndale in the United States

45. There are presently no active litigations in the U.S. involving Lawndale. Ayres Decl. ¶ 50.

46. However, within the past four years there have been several actions filed in the United States District Court for the Southern District of New York, including *Adrian Shipholding Inc. et al. v. Lawndale Group S.A.*, No. 08-civ-11124 (HB)(GWG) (S.D.N.Y.) (the "**SDNY Action**"), in which the plaintiffs obtained a judgment for over \$8 million against Lawndale. Attorneys from the New York-based law firm Chalos & Co, P.C. represented Lawndale in the SDNY Action. Accordingly, Chalos & Co, P.C. should have important information regarding Lawndale's operations. Ayres Decl. ¶ 51.

47. There was additional litigation involving Lawndale in New York Supreme Court, New York County, *Adrian Shipholding Inc. et al. v. Lawndale Group S.A.*, No. 600885/2010 (SK). Ayres Decl. ¶ 52.

48. These various actions were filed by Adrian against Lawndale in an attempt to enforce a U.K. arbitration award against Lawndale for \$7.5 million and to gain a security interest over Lawndale's assets. Ayres Decl. ¶ 53.

49. Many of these actions directly relate to the business activities of Lawndale and involve attempts by creditors to obtain discovery and security for their claims against Lawndale. Ayres Decl. ¶ 54.

50. The Liquidator is in the process of determining whether there are any realizable assets to obtain on behalf of Lawndale's creditors through the further pursuit of these claims. Lawndale has intangible assets in New York in the form of potential claims and causes of action. Additionally, Lawndale currently maintains assets in New York. Ayres Decl. ¶ 55.

Lawndale's BVI Liquidation Qualifies for Recognition as a Foreign Main Proceeding

51. The BVI Liquidation qualifies as "foreign proceeding" as defined in 11 U.S.C. § 101(23) of the Bankruptcy Code because the BVI Liquidation is a judicial proceeding under the supervision of the BVI Court in which the rights of creditors and stake-holders will be determined together, pursuant to the 2003 Act, which is a law relating to insolvency and adjustment of debts. Ayres Decl. ¶ 56.

52. John Ayres, as Liquidator, qualifies as a foreign representative as defined in 11 U.S.C. § 101(24) of the Bankruptcy Code because he is duly authorized and empowered by the BVI Court to administer the liquidation of Lawndale's assets and affairs, as well as to act as duly authorized representative of the BVI Liquidation proceeding internationally. Ayres Decl. ¶ 57.

53. The BVI Court qualifies as a "foreign court" as defined in Section 1502 of the Bankruptcy Code because it is "a judicial or other authority competent to control or supervise a foreign proceeding." Furthermore, as noted above, the BVI Court exercises direct control over the BVI Liquidation. Ayres Decl. ¶ 58.

54. The BVI Liquidation qualifies as a "main proceeding" and the BVI is Lawndale's "center of main interests" ("**COMI**"). As demonstrated by the facts included herein, Lawndale is engaged in certain non-transient economic activity in the BVI. Ayres Decl. ¶ 59.

55. As noted above, Lawndale was formed under the laws of the British Virgin Islands and maintains its registered office there. Ayres Decl. ¶ 60. These facts supports a statutory presumption that the BVI is Lawndale's COMI.

56. Furthermore, there is no basis for rebutting this statutory presumption and that the circumstances clearly indicate that the BVI is Lawndale's COMI. Ayres Decl. ¶ 61.

57. As an initial matter, substantial Lawndale assets - including almost all of its known liquid assets (i.e., Lawndale's bank account balance) - are located in the BVI. Ayres Decl. ¶ 62.

58. Moreover, as Liquidator, John Ayres has displaced the board of directors of Lawndale, Lawndale is in liquidation before a BVI Court, and all creditors of Lawndale may submit their claims in the BVI Liquidation. Moreover, Lawndale's remaining affairs are being conducted from the BVI. Ayres Decl. ¶ 63.

59. It appears that Lawndale holds and maintains claims against third parties located all over the world, including the United States Counterparties, against which the Liquidator and his staff's initial investigation reveals potential undervalue transfer schemes and/or fraudulent conveyance claims. Additionally, the initial investigation reveals potential alter-ego and veil-piercing claims that may be brought by Lawndale or its creditors against the Related Persons and Entities. The discovery requested herein will help the Liquidator to determine the validity of these claims and to draft prima facie pleadings. Ayres Decl. ¶ 64.

60. In practice, remaining disputes will be resolved (by litigation or negotiation) by the Liquidator, and at his direction from the BVI. Ayres Decl. ¶ 65.

61. Furthermore, it is clear that prior to Liquidation, Lawndale consistently represented itself to its counterparties as being a BVI company. As an example, on Bunker Delivery Receipts, Lawndale's letterhead clearly states that its registered office is in the BVI. Ayres Decl. ¶ 66, Ex. 3, Lawndale Bunker Delivery Receipts.

62. Additionally, on a Lawndale invoice (dated November 12, 2008), Lawndale's address is listed as being in the BVI. Ayres Decl. ¶ 67, Ex. 4, Lawndale invoice.

63. Lawndale's creditors, including Adrian, understood, and later asserted, that Lawndale was a BVI entity. *See* Ayres Decl. ¶ 68, SDNY Action, Doc No. 1, Complaint ¶ 9 ("At all times hereinafter mentioned, Respondent Lawndale Group S.A. was a corporation or other business entity duly organized and existing under and by virtue of the laws of a foreign country, with an office and principal place of business in the British Virgin Islands.").

64. Moreover, Lawndale made multiple allegations in public filings that it was incorporated in the BVI and maintained its principal place of business there. *See* Ayres Decl. ¶ 69, SDNY Action, Lawndale's Memorandum of Law in Support of Motion to Reopen, Doc. No. 21 ("Lawndale, a corporation incorporated and having its principal place of business in the British Virgin Islands"); Declaration of Marios Theocharous in support of Lawndale's Motion to Vacate, dated December 23, 2010, Doc. No. 28 ("Lawndale maintains its principal place of business at Vanterpool Plaza, P.O. Box 1, Road Town, Tortola, British Islands").

65. The documents mentioned above appear to be typical of Lawndale's agreements with third parties. Contracts of this type appear to have been at the heart of Lawndale's business, and the way in which Lawndale described itself and allowed itself to be described in such contracts would have been the main source of information available to any third party seeking to ascertain Lawndale's location. Ayres Decl. ¶ 71.

66. Furthermore, it is clear that Lawndale's creditors considered and continue to consider Lawndale to be based in the BVI. Ayres Decl. ¶ 72.

67. Adrian, the creditor whose petition ultimately resulted in the Liquidation Order, similarly sought to obtain payment from Lawndale by filing a winding-up petition in the BVI and to have John Ayres appointed as Liquidator of the Company. Ayres Decl. ¶ 73.

68. From his location in the BVI, the Liquidator has engaged in several negotiations with counsel for Adrian and Atlantas, and each has expressly given its support for the Application. Ayres Decl. ¶ 74.

69. It appears that most or all of Lawndale's officers and directors did not reside in the BVI. However, under BVI law, as noted above, upon liquidation, a liquidator displaces officers and directors with respect to their duties. The Liquidator resides in, and executes his powers and duties from, the BVI. Ayres Decl. ¶ 75.

70. Lawndale's COMI is the BVI, which is the natural forum for a liquidation of Lawndale to occur, and that Lawndale's creditors will be better served and protected if the BVI Liquidation is recognized as a foreign main proceeding. Ayres Decl. ¶ 76.

**PARTIES POSSESSING DISCOVERABLE INFORMATION SUBJECT
TO THIS COURT'S JURISDICTION**

71. Many banking institutions located in New York maintain records of Lawndale's United States Dollar wire transfers. Wire transfers in United States Dollars to and from parties anywhere in the world are processed by so-called "intermediary" or "correspondent" banks, the majority of which are located in New York.

72. Petitioner is seeking information concerning previously executed wire transfers only. Frevola Decl. ¶ 7.

73. Petitioner seeks records of those wire transfers that occurred prior to and immediately after Lawndale was placed in liquidation to ascertain where Lawndale funds were disbursed, transferred or otherwise dissipated.

74. Such records are maintained by the intermediary banks and are frequently produced by the banks in response to discovery requests. Frevola Decl. ¶ 9.

RELIEF REQUESTED IN THE UNITED STATES

75. Lawndale respectfully requests relief pursuant to the Bankruptcy Code, *inter alia*, an order authorizing discovery pursuant to 11 U.S.C. 1521(a)(4), once the Court recognizes the Liquidator as a foreign representative and the BVI Liquidation as a foreign main proceeding. Ayres Decl. ¶ 77.

76. As set forth above, discovery as to the nature of Lawndale's business and its transactions with the United States Counterparties and Related Persons and Entities is critical to John Ayres and his staff's investigations into potential claims by Lawndale and their ability to obtain a recovery for its creditors. Information concerning Lawndale's transactions with the United States Counterparties is located in the United States and in the hands of those individuals and entities. Information concerning Lawndale's transactions with the Related Persons and Entities is located in the United States in the form of wire transfer records maintained by intermediary banks located in New York. Collectively, Lawndale, the United States Counterparties and Related Persons and Entities are referred to herein as the "**Discovery Subjects.**" Ayres Decl. ¶ 78.

77. Accordingly, Lawndale respectfully requests, that pursuant to 11 U.S.C. § 1521(a)(4), the Court authorize and permit Lawndale to commence discovery in the United States with respect to the Discovery Subjects in relation to Lawndale. Ayres Decl. ¶ 79.

78. It appears that each of the Discovery Subjects also has transacted business in United States Dollars. Further discovery, including subpoenas for the production of documents and deposition testimony, will be required in order to understand the relationship of each of the Discovery Subjects to Lawndale. Ayres Decl. ¶ 80.

79. Obtaining this information will substantially assist the Liquidator in realizing assets of Lawndale and determining whether Lawndale should commence actions against third parties under British Virgin Islands and/or United States laws. Ayres Decl. ¶ 81.

80. Finally, the Liquidator respectfully requests that the Court grant him authority to assert claims against parties that are subject to jurisdiction in the United States, including but not limited to claims predicated upon schemes to commit fraudulent conveyances, alter ego, or veil-piercing claims. Ayres Decl. ¶ 82.

81. In particular, it is expected that the anticipated discovery will result in information sufficient for the Liquidator or other creditors of Lawndale to bring one or more actions in the Southern District of New York predicated upon alter ego or veil-piercing regarding Lawndale through to one of the Related Persons and Entities and/or other entities and individuals yet to be determined. Ayres Decl. ¶ 83.

82. The Petitioner seeks entry of an Order of this Court pursuant to sections 105(a), 1507, 1517, 1520, and 1521 of the Bankruptcy Code, substantially in the form of the proposed order attached hereto as Exhibit A (the "**Proposed Recognition Order**"):

(i) recognizing the BVI Liquidation and the Liquidator as a "foreign main proceeding" and a "foreign representative," respectively;

(ii) authorizing Petitioner to examine witnesses, take evidence, and seek the production of documents concerning the assets, affairs, rights, obligations or liabilities of Lawndale by:

- a. issuing discovery requests regarding the affairs of Lawndale, the United States Counterparties, and the Related Persons and Entities, as all such information is required in the BVI Liquidation;

- b. issuing discovery requests to intermediary or correspondent banks located in the Southern District of New York that process United States Dollar wire transfers and maintain records of such transfers to ascertain the location and movement of Lawndale's assets prior to and immediately after the commencement of the BVI Liquidation;
- c. Upon written request served by the Foreign Debtor, through its counsel Holland & Knight LLP, obtaining turnover of any and all documents, records, filings, or other information, however stored, including but not limited to emails, from any person or entity subject to this Court's jurisdiction, including but not limited to Lawndale's former legal advisors and Lawndale's related entities; and
- d. Upon written request served by the Foreign Debtor, through its counsel Holland & Knight LLP, enjoining all persons and entities subject to the jurisdiction of this Court from destroying, secreting, altering, deleting or otherwise disposing of any documents, records, filings, or other information, however stored, concerning or relating to the affairs of Lawndale; and

(iii) authorizing Petitioner or its creditors to assert claims against parties that are subject to jurisdiction in the United States, including but not limited to claims predicated upon schemes to commit fraudulent conveyances, alter ego, or veil-piercing claims.

BASIS FOR RECOGNITION

83. Section 1517 of the Bankruptcy Code mandates entry of an order recognizing a “foreign proceeding” if, after notice and a hearing, it appears that recognition will not undermine U.S. public policy and: “(1) such foreign proceeding for which recognition is sought is a foreign main proceeding or foreign non-main proceeding within the meaning of section 1502; (2) the

foreign representative applying for recognition is a person or body; and (3) the petition meets the requirements of section 1515.” 11 U.S.C. § 1517(a).

84. Each of those requirements is met here, and entry of an order in the form of Exhibit A will significantly aid the Liquidator's efforts to administer Lawndale's assets and liabilities, continue the winding up of any ongoing business affairs and proceedings for the benefit Lawndale's creditors, and ensure a fair and equitable treatment of and greater distributions to Lawndale's creditors.

A. The BVI Liquidation is a Foreign Proceeding and the Liquidator is a Foreign Representative

85. Section 101(23) of the Bankruptcy Code defines a foreign proceeding as:

a collective judicial or administrative proceeding in a foreign country, including an interim proceeding, under a law relating to insolvency or adjustment of debt in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation.

11 U.S.C. § 101(23).

86. This definition incorporates the term foreign representative, which is defined as “a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or liquidation of the debtor’s assets or affairs or to act as a representative of such foreign proceeding.” 11 U.S.C. § 101(24). There is no question that the Liquidator and the BVI Liquidation meet all of these requirements.

87. First, the BVI Liquidation is a judicial proceeding in a foreign country, the BVI, subject to the control and supervision of the BVI Court. All claims against Lawndale may be submitted in the BVI Liquidation and all claimants have the right to access the BVI Court and appeal decisions of the Liquidator. Moreover, as described in detail above, critical functions of

the Liquidator, including the settlement of claims, distribution of assets and determination of the priority of creditors may only be exercised with the explicit consent of the BVI Court.

88. Second, the BVI Liquidation is being conducted by the Liquidator, who was appointed by the BVI Court pursuant to the 2003 Act to liquidate Lawndale according to the provisions of the 2003 Act. As such the Liquidator is a "person authorized in a foreign proceeding to administer the reorganization or the liquidation of [Lawndale's] assets or affairs," within the meaning of section 101(24).

89. Third, the law governing the BVI Liquidation, the 2003 Act, specifically relates to "insolvency or adjustment of debt." 11 U.S.C. §101(23). The full name of the 2003 Act is the "Virgin Islands Insolvency Act of 2003," and it is a law relating to insolvency and adjustment of debts under BVI Law. Ayres Decl. ¶¶ 1, 56.

90. Finally, the BVI Liquidation is "collective" because it "considers the rights and obligations of all creditors." *In re Betcorp Ltd.*, 400 B.R. 266, 281 (Bankr. D. Nev. 2009). As set forth in the Ayres Declaration, the Liquidator is presently in the process of collecting and assessing claims from all of Lawndale's creditors. Ayres Decl. ¶ 35.

91. The Liquidator has participated in several negotiations with counsel for Adrian and Atlantas. Ayres Decl. ¶ 74.

92. The Liquidator intends to call meetings of Lawndale's creditors. These meetings will likely occur in the BVI, but could conceivably be held elsewhere if the creditors collectively so choose. To the extent such meetings are held in the BVI, it will be possible to participate telephonically for the convenience of creditors. Ayres Decl. ¶ 49.

93. It is well established that BVI Liquidation proceeding is a foreign proceeding. Indeed, this Court has entered multiple orders recognizing similar liquidation proceedings of

BVI entities as foreign main proceedings. *See In re Fairfield Sentry Ltd.*, 440 B.R. 60 (Bankr. S.D.N.Y. 2010) (recognizing the BVI liquidations of various BVI financial entities as foreign main proceedings upon the application of the joint liquidators of those entities) *aff'd*, 714 F.3d 127 (2d Cir. 2013); *In re Pioneer Freight Futures*, No. 13-12324 (Bankr. S.D.N.Y. Aug. 23, 2013) (recognizing BVI liquidation proceeding); *In re Transfield ER Cape Ltd.*, No. 10-106270 (MG) (Bankr. S.D.N.Y. Jan. 13, 2011); *see also In re British American Isle of Venice (BVI), Ltd.*, 441 B.R. 713 (Bankr. S.D. Fla. 2010); *In re Grand Prix Assocs., Inc.*, No. 09-16545 (DHS), 2009 WL 1410519 (Bankr. D.N.J. May 18, 2009) (recognizing BVI liquidation as foreign main proceeding);

94. This Court should find that the BVI Liquidation at issue here qualifies as a foreign proceeding and that Petitioner qualifies as a foreign representative for purposes of chapter 15.

B. The BVI Liquidation is a Foreign Main Proceeding

95. In addition to the discussion of COMI at paragraphs 51 through 70 above, Petitioner further submits that the facts of this case support a finding that that BVI is Lawndale's COMI, and that the 1516(c) presumption should be afforded sufficient weight as it is not rebutted by any evidence to the contrary.

96. A foreign debtor's COMI is determined at the time the Chapter 15 petition is filed. The Second Circuit held in *In re Fairfield Sentry Ltd.* "that a debtor's COMI should be determined based on its activities at or around the time the Chapter 15 petition is filed, as the statutory text suggests. But . . . a court may consider the period between the commencement of the foreign insolvency proceeding and the filing of the Chapter 15 petition to ensure that a debtor has not manipulated its COMI in bad faith." 714 F.3d 127, 137 (2d Cir. 2013).

97. It is well-established that in determining an insolvent entity's COMI, courts consider any relevant factors including: (i) the location of the debtor's assets; (ii) the location of

the debtor's books and records; (iii) the location of the majority of the debtor's creditors; (iv) the commercial expectations and knowledge of the debtor's creditors; and (v) the location of those who actually manage the debtor. *See In re SPhinX*, 351 B.R. 103, 117 (Bankr. S.D.N.Y. 2006), *aff'd*, 371 B.R. 10 (S.D.N.Y. 2007).

98. As an initial matter, substantial Lawndale assets - including its known liquid assets (i.e., Lawndale's bank account balance) - are located in the BVI, although Lawndale's three known creditors are located outside the BVI. Ayres Decl. ¶ 48.

99. Lawndale's ongoing business primarily consists of intangible rights in the form of potential claims, which will be controlled and coordinated by Petitioner from the BVI. The debts and credits that will result from these actions will be paid to and from the Liquidator in the BVI. Hence, the situs of Lawndale's intangible property - the whole of its ongoing business - is in the BVI.

100. Some of Lawndale's books and records are in the BVI and the Liquidator will attempt to obtain additional records through discovery being sought in this Petition.

101. Judge Lifland's decision in *In re Fairfield Sentry* is instructive. 440 B.R. 60, 63-65. In support of his decision to recognize the BVI liquidations as foreign main proceedings under chapter 15, he explicitly considered the following activities of the Fairfield debtors' joint liquidators in the BVI: (i) board meetings conducted telephonically by the debtor's counsel in the BVI; (ii) the presence in the BVI of the liquidators' employees and offices, as well as the foreign debtors' books and records; and (iii) the fact that liquidator created an "administrative nerve center" in the BVI for the foreign debtor. *See also Grand Prix Associates*, 2009 WL 1410519 at *8 (BVI was "clearly" the foreign debtors' COMI where debtors had no place of business outside the BVI, the debtors' books and records were located in the BVI and the "necessary operating

expenses for entities [was] held in a bank account in the BVI"); *In re Saad Invs. Fin. Co. (No. 5) Ltd.*, No. 09-13985 (KG) (Bankr. D. Del. Dec. 17, 2009) (main recognition was appropriate based upon post-insolvency activities in the Cayman Islands, including creditor involvement, substantial asset management and Cayman-based oversight by the administrator and creditor's committee).

102. Here, the Liquidator is engaging in substantial post-liquidation activity from offices in the BVI including: (i) displacing and assuming the duties of the board of directors; (ii) assessing the merits of Lawndale's and its creditors' potential claims, and gathering information on Lawndale's past operations; (iii) investigating Lawndale's business, the United States Counterparties, and the Related Persons and Entities; (iv) establishing bank accounts to consolidate Lawndale assets; and (v) engaging in discussions with creditors Adrian and Atlantias.

103. Lawndale's liquid and intangible assets are located in the BVI, as are some of its books and records. Furthermore, as demonstrated above, and fully detailed in the Ayres Declaration at ¶¶ 66 – 69 and Exs. 3-4, there is evidence that Lawndale's counterparties and creditors had actual knowledge that Lawndale was a BVI entity. *See In re Chiang*, 437 B.R. 397, 403 (Bankr. C.D.Cal. 2010) ("[t]he location of the COMI is an objective determination based on the viewpoint of third parties (usually creditors)").

104. In *In re Culmer*, 25 B.R. 621, 632 (Bankr. S.D.N.Y. 1982), Judge Lifland recognized a Bahamas liquidation pursuant to chapter 15's predecessor, 11 U.S.C. § 304, where the entities' creditors similarly had actual knowledge they were dealing with a Bahamas entity. He reasoned: "This result is altogether just and appropriate as these creditors dealt freely with [the foreign debtor] and were undoubtedly aware that they were dealing with a [company] incorporated under and subject to foreign law when they first began doing business with [the

foreign debtor]." Judge Lifland quoted at length from the Supreme Court's "declaration" in *Canada Railway Co. v. Gebhard* as follows:

[E]very person who deals with a foreign corporation impliedly subjects himself to such laws of the foreign government, affecting the powers and obligations of the corporation with which he voluntarily contracts, as the known and established policy of that government authorizes. To all intents and purposes, he submits his contract with the corporation to such a policy of the foreign government, and whatever is done by that government in furtherance of that policy, which binds those in like situation with himself, who are subjects of the government, in respect to the operation and effect of their contracts with the corporation, will necessarily bind him. He is conclusively presumed to have contracted with a view to such laws of that government, because the corporation must of necessity be controlled by them, and it has no power to contract with a view to any other laws with which they are not in entire harmony.

25 B.R. at 632 (quoting *Canada Railway Co. v. Gebhard*, 109 U.S. 527, 537-538 (1883)).

105. In sum, Petitioner submits that there is ample evidence and precedent to support the recognition of the BVI Liquidation as a foreign main proceeding.

C. Alternatively, the BVI Liquidation Should Be Recognized as Foreign Non-Main Proceeding

106. Section 1502(5) of the Bankruptcy Code defines a foreign non-main proceeding as "a foreign proceeding, other than a foreign main proceeding, pending in a country where the debtor has an establishment." In turn, "establishment" is defined by 11 U.S.C. § 1502(2) as being "any place of operations where the debtor carries out nontransitory economic activity."

107. Petitioner respectfully submits that at a minimum, the Liquidator's activities in the BVI constitute nontransitory economic activity. The Liquidator is continuing the remaining business of Lawndale as part of the winding-up of its affairs from offices in the BVI.

108. There is no foreign or domestic insolvency proceeding other than the BVI Liquidation. Ayres Decl. ¶ 84.

109. There can be no dispute that the BVI Liquidation is a legitimate insolvency proceeding. Under the circumstances and given that Lawndale's ongoing business activities are being conducted from the BVI, there are sufficient grounds for this Court to grant non-main recognition to the BVI Liquidation pursuant to chapter 15 and further, to grant Petitioner the discretionary relief requested.

110. By this action, Petitioner is merely acting in accordance with their statutory duty to ensure that the distribution to Lawndale creditors is maximized by conducting discovery to ascertain the exact whereabouts of Lawndale's assets, including assets that might have been improperly dissipated prior to the BVI Liquidation and/or assets that may be found within currently unknown international bank accounts.

D. The BVI Liquidation Meets All Other Requirements for Recognition

111. In addition to being a foreign main proceeding brought by a duly appointed foreign representative, the BVI Liquidation meets all other requirements for recognition under section 1515. The Petition is accompanied by evidence supporting the existence of a foreign proceeding and a foreign representative, including a copy of the Liquidation Order issued by the BVI Court in English. *See* 11 U.S.C. § 1515(b); *see also* Ayres Decl. ¶ 8, Ex. 1, Liquidation Order.

112. The Petition is accompanied by a declaration containing the information required by Bankruptcy Rule 1007, including the disclosures required by Bankruptcy Rule 7007.1, a statement indicating that there are no other persons or entities known to the Petitioner that are authorized to administer foreign proceedings with respect to Lawndale, a list of all parties to litigation with Lawndale in the United States. *See* Ayres Decl. ¶ 85, Ex. 5, Disclosure Requirements. The documents supporting the Petition are in English. *See* 11 U.S.C. § 1515(d).

113. Under these circumstances, the Liquidator and the Petition satisfy all of the requirements for recognition of the BVI Liquidation as a foreign main proceeding under chapter 15.

E. Chapter 15 Authorizes Turnover of Books, Records and Other Information For Main and Non-Main Proceedings

114. Petitioner requests that upon filing this Petition, and/or later upon recognition, this Court order the turnover of all records, books, documents, papers, electronic correspondence, banking information, information relating to claims by or against the Lawndale and any other information relating to Lawndale's property or financial affairs by those entities subject to the jurisdiction of this Court.

115. Based on filings reflected on the electronic docket for the SDNY Action it is highly likely that relevant information concerning Lawndale's property and financial affairs is in the possession of attorneys who formerly acted as U.S. legal counsel for Lawndale in this District.

116. This relief is contemplated under sections 1519(a)(2) and (a)(3), 1521 (a)(5) and (a)(7). *See In re Gee*, 53 B.R. 891, 905 (Bankr. S.D.N.Y. 1985) (under former section 304, Court issued order "directing all persons and entities within the Southern District of New York which now have or may hereinafter obtain books and records, to forthwith turn over all such books and records to [Cayman Island Liquidator]"); *see also In re 47-49 Charles Street, Inc.*, No. 93 B 42821 (CB), 1999 WL 177432 (S.D.N.Y. Mar. 30, 1999) ("Title 11, section 521 (4) of the Bankruptcy Code clearly requires the Debtor to surrender its books and records to the trustee, and title 11, section 542(e) extends that requirement to attorneys, accounts and other persons who may hold such books and records").

F. Chapter 15 Authorizes Discovery For Main and Non-Main Proceedings

117. Irrespective of whether the BVI Liquidation is recognized as a main or as a non-main proceeding, the primary relief requested herein is authorized by section 1521(a)(4) of the Bankruptcy Code.

118. Section 1521(a) provides that "[u]pon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of creditor, the court may, at the request of the foreign representative, grant any appropriate relief including...(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities."

119. The Southern District of New York has recognized the broad scope of Section 1521(a)(4). *See In re Millennium Global Emerging Credit Master Fund Ltd.*, 471 B.R. 342, 346 (S.D.N.Y. 2012) ("Section 1521(a)(4) provides specifically that the Court may enter an order providing for 'the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities.' 11 U.S.C. § 1521(a)(4). By its terms, this provision enables a Foreign Representative to take broad discovery concerning the property and affairs of a debtor.").

120. Discovery concerning Lawndale's assets, affairs, rights, obligations or liabilities is precisely what Petitioner seeks here.

121. Additionally, discovery with respect to the United States Counterparties and the Related Persons and Entities is essential to determine whether claims against such individuals and entities.

122. Thus, any third party who can be shown to have relationship with debtor can be made subject to investigation by bankruptcy examiner since purpose of investigation is to aid in

discovery of assets. See *In re Ionosphere Clubs, Inc.*, 156 B.R. 414, 432 (S.D.N.Y. 1993) (citing *In re Vantage Petroleum Corp.*, 34 B.R. 650, 651 (E.D.N.Y. 1983) and *Sachs v. Hadden*, 173 F.2d 929, 931 (2d. Cir. 1949) for the proposition that "[t]he investigation of an examiner in bankruptcy, unlike civil discovery under Rule 26(c), is supposed to be a 'fishing expedition,' as exploratory and groping as appears proper to the Examiner. Because the purpose of the Rule 2004 investigation is to aid in the discovery of assets, any third party who can be shown to have a relationship with the debtor can be made subject to a Rule 2004 investigation").

123. Here, it is clear that the United States Counterparties and the Related Persons and Entities have a sufficient "relationship" with the foreign debtor to merit discovery.

REQUEST FOR WAIVER OF LOCAL BANKRUPTCY RULE 9013-1(a)

124. It is respectfully requested that this Court waive and dispense with the requirement set forth in Rule 9013-1(a) of the Local Rules for the United States Bankruptcy Court for the Southern District of New York that any motion filed shall be accompanied by a memorandum of law on the grounds that the relevant authorities in support of the Verified Petition and Application for Provisional Relief are contained herein.

HEARING DATES AND NOTICES

125. Section 1517(c) requires that "[A] petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time." Bankruptcy Rule 2002 sets forth a twenty-one-day notice requirement to parties in interest with certain exceptions to approve the Petition. If no objections to this Petition are filed by the date ordered for such objections, Petitioner requests that the Court enter the Proposed Order recognizing the Administration as a foreign main proceeding without a hearing pursuant to Local Rule 2002-2.

126. The Petitioner proposes that once a Hearing Date has been set by the Court, notice will be given as reasonable and appropriate under the circumstances. Specifically, the Petitioner proposes serving copies of the Petition and related documents by United States mail, first-class postage prepaid, by overnight courier, by electronic mail, or by hand delivery where practicable, upon all known creditors and all other parties against whom relief is sought (or their counsel or registered agent for service of process), including any such parties (or counsel) that have addresses outside the United States, in accordance with Bankruptcy Rules 1010 and 7004(a) and (b), substantially in the form of the proposed notice attached hereto as Exhibit B (the "**Proposed Notice**").

127. Petitioner submits that such notice and service is reasonable and proper under the circumstances, and that no other or further notice is necessary or appropriate.

128. No previous application for the relief requested in this Petition has been made in this or any other court in the United States.


CONCLUSION

WHEREFORE, the Petitioner respectfully requests that this Court enter an Order, substantially in the form of Exhibit A, granting the relief requested herein and such other and further relief as may be just and proper.

Dated: New York, New York
May 22, 2015

Respectfully submitted,

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