



Claim No: CR-2019-004190

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
COMPANIES COURT (ChD)

Neutral Citation Number: [2019] EWHC 2944 (Ch)

Royal Courts of Justice
Rolls Building
Fetter Lane
London, EC4A 1NL

23 September 2019

Before:

THE HONOURABLE MR JUSTICE SMITH

IN THE MATTER OF TELFORD HOMES plc
AND IN THE MATTER OF THE COMPANIES ACT 2007

Mr Andrew Thornton (instructed by **Reed Smith LLP**) appeared on behalf of the Applicant.

J U D G M E N T

MR JUSTICE MARCUS SMITH:

- 1 I have before me an application for the sanction of a scheme of arrangement pursuant to Part 26 of the Companies Act 2006. The purpose of the scheme is a straightforward one: to enable CBRE Group Inc to acquire the entire issued share capital of Telford Group plc. In effect, my sanction of the scheme would be to give effect of a takeover, whereby the shares in Telford Group plc (the “Scheme Shares”) are acquired by CBRE Group Inc.
- 2 The consideration that will be paid for Scheme Shares is 350 pence per Scheme Share, which represents a premium over the present trading price of shares in Telford Group plc prior to the announcement of the proposed scheme. Mr Thornton, who appears for the Applicant, Telford Group plc, has very fairly pointed out to me that the trade price of the shares in Telford Group plc has, at other times, been higher than this: but that is not the case now, which is of course the relevant time for considering the approval of the scheme.
- 3 The proposal is unanimously recommended by the directors of Telford Group plc, who have been advised by respectable merchant bankers (NM Rothschild & Sons Ltd). I have been given a helpful reading list setting out the material facts behind the scheme, and Mr Thornton's skeleton has helpfully set out the jurisdictional requirements that must be met for the scheme to be sanctioned.
- 4 The law in this regard is clear, and I have been referred to the statements of the law in *Buckley on the Companies Acts*. The sanction of a scheme is in no sense a formality. The court does not act as a rubber stamp. It has an unfettered discretion as to whether or not to sanction a scheme, but that discretion must, self-evidently, be exercised rationally and judicially. Essentially, a scheme will be sanctioned where the provisions of the applicable statutory regime have been complied with; where the class at the court-ordered meeting is fairly represented; at which with statutory majorities have been obtained; and the arrangement is such that an intelligent and honest person, a member of the class concerned, acting in respect of his or her interests, might reasonably approve. The court, in such circumstances, will accord due respect to the commercial sense of those involved in the scheme and will not seek to second guess unduly the approach of such persons.
- 5 In *Re TDG plc*, [2009] 1 BCLC 445, Morgan J identified four matters that require attention of the court when sanctioning a scheme of arrangement:
 - (1) The court must be satisfied that the provisions of the statute have been complied with.
 - (2) The court must be satisfied that the shareholders (or relevant classes of shareholders and other stakeholders) are fairly represented and that the statutory majority are acting *bona fide* and are not coercing the minority in order to promote interests adverse to those of the class they purport to represent.
 - (3) An intelligent and honest person, a member of the class concerned and acting in respect of his own interest might reasonably approve the scheme.
 - (4) There must be no blot on the scheme, “blot” referring to some additional supervening technical or legal defect in relation to the scheme.
- 6 In this case I am satisfied that the statutory provisions have been met. I am also satisfied that the court order made, which ordered a meeting of the single class of shareholders, was rightly so ordered. At that meeting, 258 of the 333 scheme shareholders who participated voted in favour of the scheme. 75 voted against. The majorities were therefore 77.46 per

cent in number, representing 93.5 per cent in value. The statutory majorities were therefore achieved, albeit on a turnout in terms of the total Scheme Shares (i.e. including the shares of those who did not participate in the meeting) of 27.02 per cent in number and 48.55 per cent in value. Mr Thornton has very properly drawn these figures to my attention, and I note that they are not sufficient to constitute a reason not to approve the scheme.

- 7 I have identified no blot on the scheme.
- 8 In short all of the requirements for the sanction of the scheme are met, and I can see no reason not to sanction the scheme. In these circumstances it seems to me that the discretion should be exercised to sanction the scheme.