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Case No: CR-2022-002286

IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION

The Rolls Building
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Fetter Lane
London
EC4A 1NL

Wednesday, 27 July 2022

MRS JUSTICE JOANNA SMITH

IN THE MATTER OF:

VUE INTERNATIONAL
BIDCO PLC

MR D BAYFIELD QC appeared on behalf of the Applicant

JUDGMENT
(Approved)

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(Official Shorthand Writers to the Court)

1. MRS JUSTICE JOANNA SMITH: The applicant Vue International Bidco plc, ("**the Company**") applies for an order pursuant to section 896 of the Companies Act 2006 ("**CA 2006**") convening a meeting of its scheme creditors, ("**the Scheme Creditors**") to consider a scheme of arrangement under Part 26 of CA 2006 ("**the Scheme**"). The claim form was issued on 25 July 2022.

2. I have received a comprehensive and very helpful skeleton from Mr Bayfield QC, together with detailed oral submissions today in support of the application for which I am most grateful. I have read witness statements from Alison Cornwell, CFO of the company and Victor Parzyjagla of Kroll Issuer Services Limited, the Calculation Agent tasked, amongst other things, with optimising communications between lenders and borrowers. I have also read the Explanatory Statement, the Practice Statement letter dated 13 July 2022 and the Scheme itself, certain paragraphs of which I was taken to by Mr Bayfield during the course of his submissions this morning.

3. No-one else attends court today with a view to making any representations in opposition to the application.

4. The background to the Scheme, as set out in Mr Bayfield's skeleton which faithfully summarises the witness statements and exhibits, is as follows:

5. The Company is incorporated in England and together with its subsidiaries, all of which I will refer to as "**the Group**", it operates a well-known cinema chain across the UK, Europe and Taiwan. Numerous operating companies have been incorporated in various jurisdictions to operate these cinemas. The Group's ultimate shareholders include various entities controlled by a Canadian pension fund ("**OMERS**"), various entities controlled by a Canadian fund manager, and the Group's management and other individuals. Mr Bayfield referred me to a structure chart illustrating these points.

6. The Group presently has two key tranches of financial indebtedness:

    a. First, a debt under what I will refer to as "**the Senior Finance Documents**", namely a Senior Facilities Agreement and a Senior Secured Term Loan, both

governed by English law. The Senior Facilities Agreement, in turn, involves two groups of facilities, namely the Senior Facilities (which have an aggregate principal amount of €634 million and mature in June 2026) and the Revolving Credit Facility (which has an aggregate principal amount of £65 million and matures in July 2025). The Senior Secured Term Loan has an aggregate principal amount of £150 million and matures in November 2024. All these facilities are fully drawn, and the Company is the borrower.

b. Second, a series of junior notes referred to as the Second Lien Notes. The aggregate principal amount of the Second Lien Notes is £165 million and they mature in June 2027. The vast majority of these Second Lien Notes are, I understand, held by OMERS.

7. The Second Lien Notes are not involved in the Scheme and their rights are unaffected by it. The Scheme Creditors consist solely of the lenders under the Senior Finance Documents.

8. Liabilities under these various forms of financial indebtedness are secured by fixed and floating security over various Group assets (including the immediate wholly owned subsidiary of the Company) and are guaranteed by various Group companies. The ranking of the debt and the security is governed by an Intercreditor Agreement which is governed by English law. Under this agreement the debt under the Senior Finance Documents ranks equally (pari passu) and ranks in priority to the Second Lien Notes. The Group has various other financial obligations ranking below the Second Lien Notes, including a number of unsecured shareholder loans whose rights are also not affected by the Scheme.

9. Due to the COVID 19 pandemic the Group's cinemas were forced to close for an extended period of time and faced serious difficulties upon reopening. The business had been producing significant growth prior to the pandemic, but the effects of the pandemic have resulted in significant deterioration in liquidity. Essentially, the Group is over-leveraged and is now facing a liquidity crisis. Its financial difficulties have been compounded by the commencement, in June 2022, of arbitration proceedings against the Scheme Company by two companies, referred to during the hearing as

Event, who seek damages initially estimated at €129.5 million plus interest for the alleged breach of a sale agreement. I shall return to a letter sent by Event yesterday to the Company, in relation to this hearing, at the end of this judgment.

10. Current projections indicate that the Group will have a shortfall in its cashflow in September 2022 and as such will not be able to meet its obligations as they fall due. This position will further deteriorate in October 2022 and has been updated by reference to a 16 week liquidity forecast provided to me this morning. This shows that by the week ending 7 October 2022, there will be a cash deficiency of some £14 million sterling. Prior to that date, the Group is also projected to breach its financial covenant under the Revolving Credit Facility, absent an injection of new money. The directors consider that the Group and its business cannot continue as a going concern. The Scheme is designed to avoid an accelerated sale process with its consequent devaluation of the business and the potential for administration or liquidation.

11. In these circumstances, the Group has engaged in extensive negotiations with an ad hoc group of the five largest lenders under the Senior Finance Documents ("**the Ad Hoc Group**") and on 13 July 2022 the Company entered into a lock up agreement with the members of the Ad Hoc Group, the shareholders and various other parties ("**the Lock Up Agreement**"). The Lock Up Agreement has been made available to all Scheme Creditors who have been encouraged to accede to it. At the time of this hearing, Mr Bayfield tells me that more than 90% by value of Scheme Creditors have locked up to support the Scheme. A substantial proportion of these are not members of the Ad Hoc Group. There is no opposition today, as I have already indicated, from any Scheme Creditors.

12. Pursuant to the Lock Up Agreement, the parties are required to support the implementation of the Scheme. The purpose of the Scheme is to amend the Senior Finance Documents and thereby to facilitate entry into a new loan facility on a "super senior" basis ("**the New Money Facility**") ranking in priority to the Group's existing financial indebtedness. This will also require entry into a new subordination and turnover agreement ("**the Subordination Deed**") as between the lenders under the New Money Facility and the lenders under the Senior Finance Documents, who will be

the Scheme Creditors. All of the Scheme Creditors (which for the avoidance of doubt do not include the Second Lien Noteholders) will be entitled, but not obliged, to subscribe for lending commitments under the New Money Facility on a pro rata basis. The deadline for participating in the New Money Facility will be three business days after the Scheme Meeting.

13. The New Money Facility will enable the Group to raise £75 million in the short term, thereby solving its immediate liquidity crisis and ensuring that it can continue as a going concern and so create a stable platform from which it intends to implement a planned financial restructuring and de-leveraging of its balance sheet by entering into a debt for equity swap with the Scheme Creditors ("**the Financial Restructuring**"). The Financial Restructuring does not form part of the Scheme, although its proposed terms are set out in the Lock Up Agreement and summarised in the Explanatory Statement and it is obviously important context for the consideration of the Scheme. I need not go into the detail here, but suffice to say that the New Money Facility will ensure, I am told, that the Group does not collapse into insolvency proceedings during the implementation of the Financial Restructuring.

14. Mr Bayfield tells me that the Scheme is similar to various other recent schemes which have been used to enable a debtor to borrow new money on a "super senior" basis by amending the debtor's existing senior debt documents and allowing all scheme creditors to lend new money if they wish to do so. In this regard, my attention was drawn to the case of *Re Swissport Fuelling Limited* [2020] EWHC 1499 (Ch) ("*Swissport*"). Like the hearing in that case, today's hearing is a convening hearing, pursuant to section 896(1) CA 2006, which provides that:

> "The court may, on an application under this section, order a meeting of the creditors or class of creditors, or of the members of the company or class of members, as the case may be, to be summoned in such manner as the court directs."

15. The procedure for a convening hearing under Part 26 CA 2006 is governed by the Practice Statement (Companies: Schemes of Arrangement) [2002] WLR 1345 which, in summary, provides: (i) that the applicant should draw to the attention of the court as soon as possible any issues that may arise as to the constitution of meetings of creditors

or which would otherwise affect the conduct of those meetings; (ii) for this purpose, "unless there are good reasons for not doing so", the applicant should take all reasonable steps to notify any person affected by the Scheme that is being promoted, the purpose which the Scheme is designed to achieve, the meetings of creditors which the applicant considers will be appropriate and their composition; (iii) in deciding whether or not to order meetings of creditors, the court will consider whether more than one meeting of creditors is required and, if so, the appropriate composition of those meetings. Creditors are entitled to appear at the convening hearing and raise objections to the proposed class composition.

16. As Miles J observed in *Swissport* at paragraphs 22 and 23:

> "[22] Where a company has complied with the Practice Statement, a creditor who fails to raise a class issue at the convening hearing will ordinarily be unable to do so at the sanction hearing unless there is a good reason why the argument was not raised earlier.
>
> [23] The function of the court at the convening hearing is emphatically not to consider the merits or fairness of the proposed scheme which will arise for consideration at the sanction hearing if the scheme is approved by the statutory majority of creditors. However, the court is entitled to, and should, consider whether there is any jurisdictional roadblock which would unquestionably lead the court to refuse to sanction the scheme. See *Re Noble Group Limited* [2019] BCC 349 at [76]."

Jurisdiction

17. I turn first to jurisdiction, bearing in mind that at this hearing I may indicate whether it is obvious that the court has no jurisdiction to sanction the Scheme (see *Re Noble Group*). I can deal with this shortly. In my judgment, it is clear that the court has jurisdiction to sanction the Scheme. The Company is incorporated in England, is liable to be wound up in England and is a company as defined in Part 26 CA 2006. Furthermore, on the evidence, it would appear that the Scheme involves a compromise or arrangement between the Company and the Scheme Creditors which includes the requisite element of 'give and take' (see *Re Lehman Brothers International Europe* [2019] BCC 155 at [64]).

18. Mr Bayfield drew my attention to a third party rights issue but, as he submitted, this presents no difficulties in the context of a scheme proposed by a borrower which varies or releases the rights of the scheme creditors against guarantors, as is well established on the existing authorities.

19. As I have said, Mr Bayfield took me through the Scheme and drew various points to my attention. I am satisfied that there is no jurisdictional issue arising by reason of the appointment of a Senior Agent to enter into the Amendment and Consent letters that I was shown. I am also satisfied there is no jurisdictional issue arising in circumstances where the Scheme authorises the Company to execute a Deed of Release. I was referred to authorities which show that these are common provisions.

20. In all the circumstances I consider that there are no jurisdictional roadblocks to sanction.

Notice

21. Turning then, secondly, to the question of notice. I have been referred to various authorities on the approach I should adopt including *Re NN2 Newco Limited* [2019] EWHC 1917 (Ch), *Re ColourOz Investment 2 LLC* [2020] BCC 926 ("*ColourOz*") and *Re Selecta Finance UK Limited* [2020] EWHC 2689. From these authorities it is clear that the question is fact sensitive (as is also clear from the Practice Statement at paragraph 8) and that the requirement to give adequate notice is primarily designed to ensure that any creditors who have not previously been involved in negotiating the Scheme and/or have not already agreed to support it are given sufficient time in which to consider and respond to the proposals. Accordingly, the adequacy of the notice period will depend on a variety of factors, including the complexity of the scheme, the degree of consultation with creditors prior to the launch of the scheme and the urgency of the scheme having regard to the financial distress of the company.

22. A period of 14 days has often been regarded as a minimum acceptable period (see *Re House of Fraser (Funding) Plc* [2018] EWHC 1906 (Ch) per Birss J as he then was, at [20]) although in very urgent cases shorter periods have been accepted (see, for example, *Re Thomas Cook Group Plc* [2019] EWHC 2494 (Ch) in which a notice

period of only two days was provided). However, 14 days may not be enough where there is no immediate financial distress and the issues are not routine as, Mr Bayfield was careful to show me, was the position arising in *ColourOz*, a case in which Snowden J took the course set out in paragraph 12 of the Practice Statement so as effectively to give the creditors four weeks' notice (see [50] of the judgment in *ColourOz*).

23. In this case, the Practice Statement Letter ("**PSL**") giving notice to the Scheme Creditors was emailed directly to each Scheme Creditor on 13 July 2022 such that they had 14 days' notice of the convening hearing. "Read receipts" were received from each of the Scheme Creditors, as the evidence shows. Members of the Ad Hoc Group had, in any event, seen the PSL in draft well in advance of that date. The PSL was also either emailed to the relevant Scheme Creditors by, or uploaded to a website maintained by, the Senior Agents and a website maintained by the Calculation Agent. In addition the Senior Agents notified the Scheme Creditors of a meeting on 14 July 2022 to discuss the launch of the Scheme and the contents of the PSL.

24. The Company acknowledges that a notice period of 14 days is shorter than would be ideal but it explains that it needed to conduct extensive negotiations with the Ad Hoc Group and other stakeholders, e.g. the shareholders of the Company, and was unable to issue the PSL any earlier than 13 July 2022.

25. I am satisfied that, on the facts of this case, adequate notice has been given.

26. The Group is facing severe liquidity problems and, as I have said, is projected to experience a shortfall in its cashflow in September 2022. This means that the Scheme needs to be sanctioned by the first week of September so that there is time to enable the New Money Facility to be put in place and drawn down. If the Scheme is to be sanctioned by the first week of September, then the convening hearing needed to take place by the end of July so that the Scheme Creditors have a sufficient opportunity to consider the Explanatory Statement over the summer in advance of the Scheme Meeting.

27. Further, the evidence shows that no Scheme Creditor has suggested that it needs more time to consider its position or that it wishes to oppose the Company's application today. Communications with the Scheme Creditors have obviously proved successful given that over 90 per cent of them have now locked up to the Scheme. No Scheme Creditor has suggested that there is any jurisdictional issue or roadblock to the Scheme which needs to be considered at this convening hearing.

28. Furthermore, the Scheme Creditors are sophisticated parties, all being financial institutions, and the Scheme is not particularly complex. It does not involve the Financial Restructuring itself. Scheme Creditors therefore do not need a substantial amount of time to consider the issues arising.

29. Finally, not only are there no jurisdictional issues but, for reasons which I shall come to in a moment, I consider that there are also no class issues, and no Scheme Creditor has suggested a need to call more than one meeting. The Scheme Creditors will, of course, still be able to raise objections at the sanction hearing, as long as they can show good reason why they did not earlier raise those issues.

Class Composition

30. Turning then to class composition, I need not set out the well known principles in any detail in this judgment save to say that the basic rule is that a class "must be confined to those persons whose rights are not so dissimilar as to make it impossible for them to consult together with a view to their common interest" (see *Sovereign Life Assurance and Dodd* [1892] 2 QB 573 at 583 per Bowen LJ and *Re UDL Holdings Limited* [2002] 1 HKC 172 at [27] per Lord Millett NPJ). It is the legal rights of creditors, not their separate commercial or other interests, which determine whether they form a single class or separate classes.

31. As Mr Bayfield submitted, existing legal rights must be looked at through the prism of the appropriate comparator, i.e. the circumstances assuming the Scheme is not implemented - in this case the appropriate comparator being the accelerated sale of the business together with the entry by the Company into a pre-pack administration. The Scheme Creditors here are the lenders under the Senior Finance Documents. The

Company proposes that they should meet and vote as a single class, contending that they have the same legal rights, both absent the Scheme and under the Scheme, and that it is plain that they can consult together in their common interest.

32. I agree with the Company's proposal, essentially for the following main reasons: (i) absent the Scheme, the rights of the Scheme Creditors are substantially the same. They are all Senior Lenders. They all benefit from a common security package and they all enjoy the same ranking under the Intercreditor Agreement; (ii) the comparator to the Scheme is a situation in which the Group experiences a significant shortfall in cash in September. The evidence is to the effect that in those circumstances the Group would attempt to conduct an accelerated sales process with a view to selling the business before the Group ran out of cash. The outcome of such a process would be highly uncertain, not least because the Group would continue to require a substantial amount of new money and it is unclear where such money would come from absent the New Money Facility which is to be introduced via the Scheme. Any successful bid in the accelerated sales process would likely be implemented through a pre-packaged administration of the Company. The Scheme Creditors would have the same rights against the Company in any such administration proceedings. Any proceeds of sale would be distributed between the Scheme Creditors on a pro rata basis pursuant to the Intercreditor Agreement; (iii) under the Scheme the Scheme Creditors will also be treated in the same way. The Scheme will give effect to certain amendments to the Senior Finance Documents and facilitate entry into the Subordination Deed and these arrangements will be binding on all of the Scheme Creditors. All of the lenders will have a contractual right to participate in any New Money Facility pro rata to their existing commitments.

33. In my judgment, and before turning to the possible differences between them which have very properly been identified by the Company, I can see no reason why the Scheme Creditors should not be able to consult together in their common interest.

34. Mr Bayfield drew my attention to paragraph 84 of Ms Cornwell's statement, which indicated that an accelerated sale will lead to a 48% return for Scheme Creditors whereas the Scheme and Financial Restructuring would lead to a 70.5% return, a significant delta of some 22.5%. He invited me to bear this in mind in considering

factors which he drew to my attention which could, in theory, be relevant to class composition.

35. Mr Bayfield identified six such factors, submitting that none results in a fracturing of the class.

36. First, that there are differences between the interest rates and maturity dates of the debt under the Senior Finance Documents. However, this was not regarded as a factor which should lead to fracture in the class in the case of *Swissport*, at least in circumstances where the comparator is, as here, a formal insolvency process and I agree with Mr Bayfield that the *Swissport* scheme was similar to the Scheme in this case (see in particular paragraphs [34] and [35] per Miles J). In that case, the maturity dates were not being changed by the scheme itself and the scheme had no impact on the rates of interest under any of the existing facilities. The same considerations apply here.

37. Second, that it is possible that some Scheme Creditors may not wish to subscribe for their pro rata share under the New Money Facility. However, as Mr Bayfield points out, all the Scheme Creditors will have the same right to subscribe. The interests, wishes or personal characteristics of the Scheme Creditors are irrelevant to class composition (see, for example, *Re E D and F Man Treasury Management Plc* [2020[EWHC 2290 (Ch) at [14] per Zacaroli J). If there is any point to be made about this, it arises at the sanction stage and not at this stage.

38. Third, that pursuant to the terms of a backstop letter executed at the same time as the Lock Up Agreement, the members of the Ad Hoc Group, and/or their respective affiliates, have agreed to underwrite the New Money Facility for a backstop commitment fee equal to 3% of their respective backstop commitments on the New Money Facility ("**the Backstop Fee**"). In return for the Backstop Fee, the members of the Ad Hoc Group will be required to subscribe for lending commitments under the New Money Facility for which the Scheme Creditors have not subscribed. Mr Bayfield tells me that backstop fees are very common and that such arrangements have never been held to fracture the class, referring to various authorities including *Re Noble Group Limited*, to which I have already referred, at [153] to [154] per Snowden J and

Re Codere Finance 2 UK Limited [2020] EWHC 2441 (Ch) at [90] to [91] per Falk J. The reasoning in these authorities is that, provided that the backstop fee is paid for legitimate reasons and represents a proper fee for a commercial service (rather than being a form of bounty or windfall) it does not fracture the class.

39. In my judgment, that is the case here where the Company considers that, absent the backstop arrangements, the New Money Facility would not be fully subscribed. As Ms Cornwell points out in her statement, the Company's deteriorating liquidity position means that it requires certainty that the New Money Facility will be fully funded and can be implemented as soon as possible. Since the backstop arrangement is a commercial underwriting service which involves an assumption of risk, a price must be paid to the Ad Hoc Group for providing that service. Ms Cornwell was, according to her evidence, directly involved in the negotiation of the Backstop Fee, with the assistance of the Company's financial advisers, Lazard, and the Company considers that the Backstop Fee represents a fair market price for the underwriting service provided by the Ad Hoc Group. Lazard has carried out an analysis which demonstrates that the Backstop Fee falls comfortably within the parameters typically accepted in the market. Mr Bayfield took me, during the course of his oral submissions, to a useful table illustrating this point. Certainly, a 3% Backstop Fee does not appear to be out of the ordinary. Although the opportunity to participate in the backstop arrangements was not offered to the general body of Scheme Creditors, I accept that this would have been impractical and that there was no preferential treatment of the Ad Hoc Group. Given the delta in potential returns in the comparator scenario to the Scheme (to which I have already referred) of 22.5%, I accept that it would be unreal to think that the Ad Hoc Group members could not consult with the other Scheme Creditors simply by reason of their receipt of the Backstop Fee.

40. Fourth, each Scheme Creditor which has entered into the Lock Up Agreement is entitled to lock up fees. As with backstop fees, consent fees of this type are also common, submits Mr Bayfield, and the lock up fees in this case have been set at a modest level of 0.5%.

41. Mr Bayfield referred to two strands of reasoning in the cases on the point that a consent fee does not fracture the class. The first strand focusses on the proposition that where

everyone has had the opportunity to obtain the fee, their rights are no different (see *Swissport* at [72]). The second strand suggests that, even if a consent fee is made available to all, it is necessary to consider whether the quantum of the consent fee is material: if the consent fee would be unlikely to exert a material influence on the relevant creditor's voting decisions (having regard to the amount that the creditors would receive in the comparator to the scheme and the value of the rights conferred by the scheme) then the fee does not fracture the class (see *ColourOz* at [95]-[111]).

42. Both strands point in the same direction here. Since 13 July 2022, all of the Scheme Creditors have had the opportunity to sign the Lock Up Agreement and receive the lock up fees. A very substantial proportion have now, in fact, "locked up". The existence of the Lock Up Agreement was noted in the PSL and the Lock Up Agreement was posted to the Scheme website. The lock-up fee is only 0.5% and, in the context of the delta in potential returns to which I have referred, there appears to be no basis for concluding that the very modest lock up fees would exert a material influence on the Scheme Creditors' voting decisions, indeed Mr Bayfield described such a proposition as "fanciful". I accept that the existence of the lock up fees does not fracture the class.

43. Fifth, the Company has agreed to pay the fees of the legal and financial advisers of the Ad Hoc Group in connection with the Scheme and Financial Restructuring. I note that these payment obligations (to the extent that they fall due) are not contingent on the sanctioning of the Scheme. This cannot therefore have influenced the support of the Ad Hoc Group for the Scheme. Again, Mr Bayfield points out that it is well established that the payment of adviser fees does not fracture the class. See *ColourOz* at [113] per Snowden J and *Re E D and F Man Treasury Management Plc* at [13] per Zacaroli J.

44. Whilst the court must have regard to the overall effect of any "benefit" conferred on the Ad Hoc Group (see *Re Codere Finance (UK) Ltd* [2015] EWHC 3206 (Ch) at [2] per Nugee J), the only relevant "benefits" in this case are the Backstop Fee and the payment of adviser fees. I accept that neither of these "benefits" can be regarded as a bounty or windfall for the Ad Hoc Group and they do not provide a reason to fracture the class, whether viewed collectively or individually.

45. Sixth, one of the facilities under the Senior Facilities Agreement is known as the BIGS Facility. It is an Ancillary Facility in the sum of £15 million. The purpose of the BIGS Facility is to provide bank guarantees for certain leases in Italy. The lender under the BIGS Facility is a Scheme Creditor. It has the same rights under the Scheme as the other Scheme Creditors and will be entitled to participate in the New Money Facility. However, under the Financial Restructuring the BIGS Facility will be treated differently from the other debt held by the Scheme Creditors. In particular, the BIGS Facility will not be discharged by way of a debt for equity swap. It will remain in place so that the Italian leases can continue to be supported by the relevant bank guarantees. I understand that this is necessary to avoid the significant negative operation impact that would arise from a termination of the Italian leases, which will continue to be used by the Group after the Financial Restructuring is complete.

46. Given that the Financial Restructuring will not be implemented pursuant to the Scheme, there is no reason to place the BIGS Facility lender into a separate class. There is no relevant difference between the legal rights of the Scheme Creditors and the rights of the BIGS Facility lender under the Scheme. The question to be considered by the Scheme Creditors at the Scheme Meeting is whether to allow the Company to borrow the New Money Facility, not whether to approve the Financial Restructuring. Further, as Mr Bayfield points out, the BIGS Facility is a very small part of the debt to be compromised by the Scheme. If the BIGS Facility lender were to be placed in a class of its own then it would be given a veto over the Scheme which would be contrary to the policy against class proliferation. In all the circumstances I accept that the proposed treatment of the BIGS Facility under the Financial Restructuring does not fracture the class for the purposes of voting on the Scheme. The BIGS creditor could appear at the sanctions hearing and make representations if it wishes to do so.

47. For these various reasons, I do not think that any of the specific matters quite properly raised by Mr Bayfield in the course of the hearing undermines my preliminary conclusion that it is appropriate for there to be a single class meeting of the Scheme Creditors. In the circumstances, I will make the order sought, subject to going through the detailed terms of that order with counsel in a moment.

48. One other matter to which I should refer, is a letter received from Event yesterday, asserting that the Scheme and Financial Restructuring is prejudicial to its interests. Since then, I understand there to have been subsequent correspondence between Event's legal advisers and the Company, and I understand that the Company has offered to share with Event and their advisers the hearing bundle for this hearing in return for their agreement to sign a Non-Disclosure Agreement. I have not looked at this correspondence in any detail, although I have read the initial letter from Event.

49. Mr Bayfield has a complete answer to Event's complaint. Event is not a Scheme Creditor and its rights are not affected by the Scheme. There can be no objection to the Scheme by an unsecured creditor whose rights are unaffected by it. No jurisdictional issues or class issues are raised by Event and there is nothing further that I need to consider at this stage. In my judgment Mr Bayfield is right about this. Event is not represented at this hearing and the letter does not oppose the Convening Order sought by the Company. If Event wish to make representations at the sanctions hearing as to the fairness of the Scheme and the Financial Restructuring then they can no doubt do so.

Epiq Europe Ltd hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

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This transcript has been approved by the Judge