Case No: CR-2023-005778
Neutral Citation Number: [2023] EWHC 3561 (Ch)

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
COMMERCIAL COURT

7 Rolls Buildings
Fetter Lane
London
EC4A 1NL

Friday, 1 December 2023

BEFORE:

SIR ALASTAIR NORRIS

RE ALMIDA GROUP UNLIMITED & OTHERS

MR ANDREW THORNTON KC (instructed by **Baker & McKenzie LLP)** appeared on behalf of the Applicants

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JUDGMENT
(Approved)

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1. SIR ALASTAIR NORRIS: The group of companies headed by Schlumberger NV ("the Group"), which is incorporated in Curaçao, is a global enterprise comprising over a thousand legal entities operating in some 120 jurisdictions. It has grown in part by acquisition, whereby it takes over a company, extracts its business and integrates it with another operating company within the group, and leaving behind a legacy company which nonetheless has to be administered so as to comply with local law. In England there is a subgroup of companies directly or indirectly held by Schlumberger UK Holdings Limited ("Holdings"), which includes eleven such legacy companies, referred to in argument as "the scheme companies". It is proposed to reorganise the Group by transferring assets and liabilities of the scheme companies to Holdings in return for an allocation of shares in Holdings to the scheme companies, which will in all likelihood not be taken up, and the scheme companies then automatically dissolved. The proposed mechanism is a scheme of arrangement under Part 26 of the Companies Act 2006, in particular using the amalgamation provisions in Section 900.

2. At the convening hearing on 18 August 2023, Edwin Johnson J held that each of the scheme companies was "a company", that the proposal of each of the scheme companies was a "compromise" or "arrangement" for the purpose of Part 26, that he was satisfied that the proposals would amount to a" reconstruction" or "amalgamation" for the purposes of Section 900(1)(a) of the 2006 Act, and he directed the convening of a single-class meeting for each of the scheme companies. Because the Practice Statement was not followed in full in relation to each applicant company, the scheme companies did not seek to bar the making of objection at the sanction hearing to any of these findings, but no stakeholder seeks to review them, and for my own part I am entirely satisfied that I should follow Edwin Johnson J's decisions.

3. This is now the application for the sanction of the scheme. The role of the court is very well established. Out of many possible summaries, it is sufficient to cite (but not necessary to set out) the current edition of Buckley on the Companies Acts at paragraph 219. But out of that summary I consider there are five issues for my consideration at

the sanction hearing.

4. The first issue relates to jurisdiction. As Mr Thornton, KC has pointed out in his skeleton argument, the utility of Section 900 is much circumscribed by the decision in *Noakes v Doncaster Amalgamated Collieries Ltd* [1940] AC 1014, which in essence held that the transfer of rights under amalgamation provisions identical to Section 900 could not affect property or rights capable of transfer only with the consent of a counterparty. This leads to a practical requirement to novate all contracts or to obtain consent before the jurisdiction can be invoked.

5. Prior to and in the course of the present application, thorough due diligence has been undertaken in relation to each of the eleven scheme companies and extensive steps undertaken to ensure that the *Noakes* principle would not be infringed. This has involved re-registering companies as unlimited companies, effecting capital reductions, undertaking distributions in specie and adjusting intra-group liabilities. It has resulted in eleven single-member companies with no employees and limited assets. Each scheme company in the result has no contracts or property which is incapable of transfer or has obtained all relevant consents to ensure that all inter-company balances, of which there may be some undocumented, are caught. A master consent document has been prepared and executed. I am therefore satisfied that no jurisdictional issues arise in relation to the invoking of this jurisdiction.

6. The second question is whether the convening order has been complied with, and in each case the short answer is that I am satisfied that it has been and no further detail is required.

7. The third matter is whether in each case the requisite majority was obtained and whether the court can rely on that outcome. Given that these were single-member companies, there was 100 per cent attendance and 100 per cent approval, so no issues arise.

8. The fourth issue is whether the scheme is "fair" in the sense that an intelligent and honest scheme member, acting in respect of their interests as such, could reasonably approve the scheme. There is no doubt in such a reorganisation as this that the answer

is “yes”. What is being undertaken is a simple consolidation, despite administrative difficulties which may be in the way of that commercially desirable outcome. Care has been taken to preserve the possession of all stakeholders, including, I should make plain, creditors.

9. The last question is whether there is any defect in any scheme which might render it ineffective or unworkable. There are three short points:

(a) To ensure that the scheme has effect and bites on assets, any company without apparent assets is to be funded by the provision of a £1,000 loan. There will therefore be assets to transfer.

(b) To ensure that any liability of a scheme company arising on or after the scheme-effective date is covered, Holdings, which on the evidence has a strong balance sheet, has assumed direct responsibility under a deed poll, thereby rendering it unnecessary for any such creditor as might exist to restore the dissolved scheme company to the register and proceed against it.

(c) It was held in *Re Rylands-Whitecross Limited* (1973, unreported) that an amalgamation provision cannot be used for the purpose of avoiding an obvious tax liability. That principle is simply not engaged. On the evidence, there are no tax benefits derived from the implementation of this scheme of arrangement, which is purely to effect the elimination of legacy companies with no commercial purpose.

10. In these circumstances, I am content to sanction the scheme. I have seen the form of order, and I am satisfied that the relief sought falls well within the scope of Section 900(2) of the 2006 Act, and I will order accordingly.

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This transcript has been approved by the Judge