

JERSEY / JUDGMENT

Representation of Bathroom Brands Plc [2016] JRC 150 (30 August 2016)

[2016] JRC 150

Source: bailii.org · Research copy typeset by Esheria. Not court-issued or certified.

judgment

the commissioner: 1. This is an application by Bathroom Brands Plc, which we shall refer to as "the Company", for the Court's sanction of a scheme of arrangement between it and its members under Article 125 of the Companies (Jersey) Law . There is a linked application to reduce its share capital. 2. The Company is incorporated in Jersey. It is the holding company of the Bathroom Brands Group which carries on the business of sourcing, supply and distribution of bathroom furniture and like equipment in Europe, the USA and the Far East. 3. The group has established itself successfully as a Jersey-headquartered business with a dedicated team of employees based in St Helier, but the Board believes that a new group holding company should be established which is incorporated and resident in the United Kingdom. It is considered that this is the best way to expand the group's business and to make better use of the new purpose-built office, warehousing and showroom in Kent. To that end a new company, Bathroom Brands Group Limited, which we shall refer to as "New BB", has been incorporated in England. At present it has only issued one share but its ability to issue shares mirrors that of the existing shares in the Company; in other words, unissued shares in New BB may be issued as Ordinary shares, B1 shares, B2 shares or C shares, with matching rights to the corresponding class of shares in the Company. 4. At present the Company's share capital is as follows. It has four classes of share in issue, namely Ordinary shares, B1 shares, B2 shares and C shares. Each of them has a nominal value of £0.00025. As at today's date the issued shares are as follows:- (i) Six registered members hold in aggregate 477,583,044 Ordinary shares; (ii) Eleven registered members hold in aggregate 16,475,355 B1 shares; (iii) Ten registered members hold in aggregate 19,574,643 B2 shares; and (iv) Two registered members hold in aggregate 43,000,000 C shares. 5. The scheme is essentially very simple and is not dissimilar to those the Court has seen in cases such as Representation of Informa PLC

[2014] JRC 120C and Representation of Beazley Plc

[2016] JRC 109 . Under the scheme it is proposed as follows:- (i) The issue share capital of the Company will be reduced by cancelling and extinguishing all the issued Ordinary shares, B1 shares, B2 shares and C shares. (ii) Immediately upon this reduction of capital taking effect, the issued share capital of the Company will be increased to its former amount by

the creation of a similar number of Ordinary shares of £0.00025 each, equal to the nominal value of the Ordinary shares, B1 shares, B2 shares and C shares cancelled and extinguished pursuant to the reduction in capital. (iii) The Company will apply the credit arising in its books of account as a result of the reduction of capital in paying up in full at par the new Ordinary shares and will allot and issue the new Ordinary shares to New BB, credited as fully paid so that New BB will own the entire issued share capital of the Company. (iv) As consideration for the cancellation of the Ordinary shares, B1 shares, B2 shares and C shares and the issue of the new Ordinary shares to New BB, New BB will allot and issue, credited as fully paid:- (a) To holders of Ordinary shares, one New BB Ordinary share for each Ordinary share cancelled, save that the existing one share holder in New BB will receive one less New BB Ordinary share than that shareholder's entitlement so as to reflect the fact that she already has one share; (b) To holders of B1 shares, one New BB B1 share for each B1 share cancelled; (c) To holders of B2 shares, one New BB B2 share for each B2 share cancelled; and (d) To holders of C shares, one New BB C share for each C share cancelled. 6. The effect of the scheme therefore, once put into effect, will be that the Company will be a wholly-owned subsidiary of New BB and the shareholders in New BB will be the existing shareholders in the Company, each holding the same number and class of shares in New BB as such shareholder currently holds in the Company and accordingly each shareholder of the Company will have the same proportionate of interest in the profits, dividends and net assets of New BB as such shareholder had in the profits, dividends and net assets of the Company immediately prior to the scheme becoming effective. 7. Furthermore, following implementation of the scheme, the Company will be summarily wound up and dissolved so that, ultimately New BB will hold the assets, in terms of subsidiaries, held currently by the Company. 8. On 6 th July the Court made orders concerning the holding of the necessary meetings of shareholders to consider the scheme. As is set out in the judgment In the matter of Bathroom Brands Plc

[2016] JRC 115A the Court ordered that class meetings be held in respect of the ordinary shares, the B1 and B2 shares together (because their rights are identical) and the C shares. Those meetings, together with a general meeting of shareholders, have now been held and, accordingly, the Company comes back before the Court to seek sanction to the scheme and confirmation of the reduction of capital. 9. The test which the Court applies on such applications is well established. It is three-fold and the Court must consider:- (i) whether the provisions of the 1991 Law have been complied with; (ii) whether the class of shareholders to be affected by the proposed scheme was fairly represented by those who attended the meeting and whether the statutory majority are acting bona fide and not coercing the minority in order to promote interests adverse to those of the class whom they purport to represent; and (iii) whether the arrangement is such that an intelligent and honest man, a member of the class concerned and acting in his interest, might reasonably approve. 10. As to (i), the Court has received affidavit evidence from Mr Clive Chaplin who was the chairman of the various meetings. We are satisfied that they were held in accordance with the Act of the Court of 6 th July and that the scheme was approved by the

required statutory majority of 75% of the votes cast at each meeting. 11. As to (ii), the detailed outcome of each meeting was as follows:- (i) At the meeting of the ordinary shareholders, all six members, i.e. 100% of the class, were present in person or by proxy and the vote was unanimous in favour of the scheme. (ii) At the meeting of the B1 and B2 shareholders, members holding 74.8% in value of the B1 and B2 shares were present in person or by proxy and the vote was, again, 100% in favour of the scheme. (iii) At the meeting of C shareholders, the two members holding 100% of the C shares, attended in person or by proxy and, again, the vote in favour of the scheme was unanimous. 12. From this information we are quite satisfied that a fair representation of the members of each class was present at the relevant meeting and no member voted against the scheme. There is no question of the coercion of any minority. 13. As to (iii), the reasons for the scheme were clearly set out in the scheme circular and the scheme was supported by all the directors, including the non-executive directors. The scheme circular dealt fully and fairly, in our judgment, with matters which might be said to be adverse to the scheme, namely the tax position of members, the fact that members will lose the protection of the City Code on Takeovers and Mergers because New BB is a private company, and the minor differences between the Article of Association of New BB and the Company. Furthermore, as is invariably required by the Court when authorising the holding of the relevant meetings, the scheme circular stated clearly the date and time of today's hearing and that any member who objected to the scheme was entitled to attend in order to have his or her say. We record that no-one has attended today's hearing to object to the scheme. We are therefore satisfied as to the third limb of the test. 14. As to the reduction in capital, this is a very technical reduction, and is an integral part of the scheme. All the existing shares are to be cancelled but they will be immediately replaced by an equal number of new ordinary shares to be issued to New BB. There will be no reduction in the assets of the Company, the reduction has been clearly explained to shareholders and has an obvious and discernible purpose. No-one has voted against the proposed reduction. 15. On a reduction of capital the Court always has regard to the interests of creditors. The main creditor of the Company is Investec Bank Plc which has loaned money to the Company. It is intended that immediately upon the scheme becoming effective, New BB will enter into a new loan facility with Investec and the proceeds of that loan will be used to pay off the Company's debt to Investec. As to the other creditors, the evidence shows that the Company has sufficient cash at the bank to settle all these amounts and that sum will be retained by the Company for payment of such creditors. We are satisfied therefore that the reduction in capital will cause no prejudice to creditors. 16. Finally, this is not a case where the proposed reduction involves either a diminution of liability in respect of any amount unpaid on a share or the payment to a shareholder of any paid up capital so that the provisions of Article 62(2-5) of the Law *prima facie* have no application; nor do we think it necessary or appropriate to exercise the discretion conferred by Article 62(2) to direct that those provisions apply. 17. In all the circumstances we grant our sanction to the scheme, we confirm the reduction in capital and we approve the minute (as amended by Advocate Ward this morning) to show the information required by Article 64(2) of the Law.

Authorities Companies (Jersey) Law 1991. Representation of Informa PLC

[2014] JRC 120C . Representation of Beazley Plc

[2016] JRC 109 . In the matter of Bathroom Brands Plc

[2016] JRC 115A. Page Last Updated: 22 Sep 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.bailii.org/je/cases/UR/2016/>

CASE PAGE <https://chat.esheria.ai/case-law/jersey/representation-of-bathroom-brands-plc-2016-jrc-150-30-august-2016>

Prepared on 24 October 2026 · Esheria