

JERSEY / JUDGMENT

Representation of IHF (Jersey) Ltd [2012] JRC 196 (23 October 2012)

[2012] JRC 196

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

judgment

the bailiff: 1. This is an application by IHF (Jersey) Limited, to which we shall refer as "the company", to reduce its share capital pursuant to Articles 62 and 63 of the Companies (Jersey) Law 1991 . 2. The background very briefly is as follows. The company has an authorised share capital of £302,520,902 divided into 97,502,496 ordinary shares of £1 each and 205,018,406 A preference shares of £1 each. All of the ordinary shares have been issued and paid up at par. All the A preference shares have also been issued but they were issued on terms that £92,509,203 was payable on issue, a further sum of £92,509,203 is payable on 1 st January, 2013, and a further amount of £20,000,000 is payable on the fifth anniversary of the issue of those shares if they are still in issue at that time. It follows that the issued share capital, which would be shown in the accounts at present, is the sum of £97,502,496 and £92,509,203, namely £190,011,699. 3. The company is wholly owned by Ladbroke's Group Finance Plc, to which we shall refer as "LGF". That company owns all the ordinary shares and all the A preference shares. Under the Articles of Association of the company the holders of the A preference shares are entitled to demand a dividend in the sum of £92,509,203 and the company is bound to pay that sum subject to the solvency test required by Article 115 of the 1991 Law. LGF has made such a request. 4. The directors expect the company to be able to satisfy the solvency requirement. However there will be insufficient income and accumulated profits to pay the dividend. The directors do not wish to show a negative profit and loss account in the accounts and in addition LGF wishes the dividend to be treated as income in its hands. We should add that the information originally provided to us was not sufficiently detailed and we adjourned the original hearing earlier this week in order that a further affidavit could be filed explaining more clearly the nature of the overall transaction. We have now had that explanation and we do not think it necessary to rehearse it in detail. Suffice it to say that this is part of a group structure and part of an overall transaction. We are satisfied that there is a discernible purpose. 5. So the outcome is that LGF, as sole shareholder, has passed a special resolution reducing the share capital in respect of the ordinary shares by £87,502,134 and transferring that sum to the profit and loss account as a reserve of profit available for distribution which can then be used to fund the dividend in respect of the A preference shares to which we have referred. 6. The test for a reduction of share capital is well established and was set out in the case of Representation of Henderson Far East Income Limited

[2007] JLR N16. The Court must consider the position of the shareholders and also the position of creditors. In relation to shareholders the test is that the Court must be satisfied first that the shareholders, particularly if they are different classes, have been treated equitably, secondly that the proposals for reduction have been properly explained to the shareholders, and thirdly that the reduction has a discernible purpose. 7. As we have said, this is a company where there is only one shareholder namely LGF; clearly therefore the first two matters are easily satisfied. As for the discernible purpose, as we have just described, having received the further information we are satisfied that there is; and of course it is very much a matter for the sole shareholder as to where its best interests lie. 8. We turn therefore to the position of creditors. Apart from the amount owed to LGF in respect of the A preference shares, the only amount owed is to the company administrators who are owed some £13,000 together with perhaps a further £5,000, which is expected to become due shortly. The company administrator and, of course, the shareholder, have consented to the reduction and the Court is satisfied that there are adequate assets to protect the interests of creditors. 9. In all the circumstances we do not think it necessary to convene the creditors pursuant to Article 62(6) and accordingly we direct under that provision that paragraph (3)-(5) of Article 62 shall not apply. 10. In all the circumstances therefore the Court is willing to approve the reduction and to approve the minute of the share capital which has been produced to us. Authorities Companies (Jersey) Law 1991. Representation of Henderson Far East Income Limited

[2007] JLR N16. Page Last Updated: 13 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/2012/>

CASE PAGE <https://chat.esheria.ai/case-law/jersey/representation-of-ihf-jersey-ltd-2012-jrc-196-23-october-2012>

Prepared on 30 October 2026 · Esheria