

JERSEY / JUDGMENT

Representation of Tarsus Group Plc

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[2008]JRC202 royal court (Samedi Division) 1st December 2008 Before : M. C. St. J. Birt, Esq., Deputy Bailiff, and Jurats Bullen and Le Cornu. REPRESENTATION OF TARSUS GROUP PLC Advocate M. J. Thompson for the Representor.

judgment

the deputy bailiff: 1. This is an application by Tarsus Group Plc (“New Tarsus”) for a reduction of its share capital, in particular its share premium account, by the sum of £39,065,048.80 which is to be transferred to a reserve which will be capable of distribution to share holders. 2. The background is that New Tarsus is now the holding company of the Tarsus Group of companies. The previous holding company was an English company called Tarsus Plc (“Tarsus”). Pursuant to a scheme of arrangement, which has now been sanctioned by the High Court in London, the shares in Tarsus were cancelled and all the shareholders in Tarsus received a new share in New Tarsus for each share previously held by them in Tarsus. Tarsus became a wholly owned subsidiary of New Tarsus and the value of the shares in Tarsus issued to New Tarsus has resulted in a share premium account in the sum referred to above in the books of New Tarsus. 3. When considering applications to reduce share capital, the Court must consider the position of the shareholders and creditors. Where shareholders are concerned the Court must be satisfied that the proposal has a discernable purpose which has been properly explained to the shareholders. In this case the resolution to reduce the share capital was passed by the founder members of New Tarsus when only two shares were in issue. It was passed before the scheme took effect and was a resolution which was conditional upon the scheme coming into effect. In such cases in particular it is important that the Court is satisfied that the new shareholders, who after all will be the persons affected by the reduction, have been made fully aware of the proposed reduction and that it has been properly explained to them. We are quite satisfied that that is the case here. The circular to the shareholders of Tarsus, concerning the scheme, clearly set out the intention to reduce the share premium account of New Tarsus once the scheme came into effect, and also explained that the purpose was to ensure that the group could continue its distribution and share buy back policy. Furthermore, and very sensibly, the resolution of the shareholders of Tarsus, in which they approved the scheme, contained a provision which specifically approved the reduction in the share premium account of New Tarsus. 4. As to creditors, we are satisfied that all the creditors have consented to the reduction. There will still be very substantial assets left in the company and we are quite satisfied the creditors will not be prejudiced. We do need to circulate them and we are content to dis-apply the relevant provisions, namely paragraphs (3)-(5) of Article of the Companies (Jersey) Law 1991. 5. In the circumstances we make the order as requested and

we approve the minute. Authorities Companies (Jersey) Law 1991.

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