

Case No: 1014/2015

Neutral Citation Number: [2017] EWHC 958 (ch)
IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION

The Rolls Building
7 Rolls Buildings
Fetter Lane
London EC4A 1NL

Monday, 6 February 2017

BEFORE:

HER HONOUR JUDGE WALDEN-SMITH
(Sitting as a deputy High Court judge)

:
**IN THE MATTER OF WEST END QUAY ESTATE MANAGEMENT LIMITED (in
administration)**

MR A CLUTTERBUCK QC (instructed by Rosenblatt) appeared on behalf of the Applicant

MS E WILLIAMS (instructed by Wallace LLP) appeared on behalf of the Respondent

JUDGMENT
(As Approved)

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1. JUDGE WALDEN-SMITH: This is an application made by the joint administrators of West End Quay Estate Management Limited (“WEQEM”) pursuant to the provisions of paragraph 79 of schedule B1 to the Insolvency Act 1986. The application is for the discharge of WEQEM’s administration, that WEQEM be wound up by the court and that, subsequent to that winding up, the administrators both be appointed as joint liquidators of WEQEM, pursuant to the provisions of section 140 of the IA 1986 that they both be appointed as joint liquidators of the company.
2. I have been much assisted by the written and oral submissions of Mr Clutterbuck QC, for which I am grateful.
3. The potential creditors of the company have all been notified by both Mr Appleton and Mr Katz of this application.
4. The administration of WEQEM is due to come to an end on 8 February, that is Wednesday of this week, and the position of the administrators is that they do not believe that the purpose of the administration can be achieved by that date. It is clear to me that the purpose of the administration cannot be achieved. There is no money to fund the ongoing costs of the administration and the evidence from the administrators is that the statutory objectives of the administration cannot be achieved. In those circumstances, there is a statutory obligation on the administrators to bring the matter back to court and for the company to be wound up pursuant to the provisions of section 122F of the IA 1986 on the basis that the company is unable to pay its debts.
5. Paragraph 79(1) of schedule B1 of the IA 1986 provides that:

"On the application of the administrator of a company, the court may provide for the appointment of an administrator of the company to cease to have effect from a specified time."

And under paragraph 79(2)(a) of the IA 1986 provides that:

"The administrator of a company shall make an application under this paragraph if he thinks that the purpose of administration cannot be achieved in relation to the company."
6. The administrators have set out to the creditors that the only appropriate outcome for the administration is for WEQEM to be wound up by the court. That is the basis of the application made before me today. In addition to the application for the administration to be brought to an immediate end and for the company be placed into compulsory liquidation, and the application for the cost of that exercise to be paid as an expense of the administration, there is an application for the administrators to be discharged from any liability in respect of any actions of administrators with immediate effect. That part of the application is objected to and has been put to one side. Paragraph 4 of the draft order before me provides that that application be adjourned to the registrar generally, with permission to the applicants to restore on 21 days' written notice to Wallace LLP, the solicitors.
7. With respect to the Paddington companies which are involved in this matter, they have expressed their position letter through their solicitors' letter dated 20 December 2016. The Paddington companies are potentially the most substantial of the creditors. They have noted the application that has been made and as creditors of WEQEM they do not

object to the administrators being appointed as liquidators, and they accept that their knowledge of WEQEM and of the issues involving WEQEM would be of assistance in any compulsory liquidation.

8. So far as Wallace is concerned, their original objections to the application have gone away now that the issue with regard to the administrators being discharged from any liability has been put to one side.
9. It is a matter for the court to determine whether or not it would be appropriate in these circumstances for the administrators to be appointed as liquidators. As has been expressed by counsel, the two administrators are well advised and would immediately appreciate if there is any conflict between their position as having formerly been administrators and now being appointed as liquidators. So far as the court is concerned, it is readily apparent that there are great advantages both in the saving of cost and time for those administrators who have been closely involved in this matter and understand the great complexities involved in this case to now be appointed as liquidators. Consequently, I will make the order that they be appointed as liquidators.
10. Norris J in the case of *Graico Property Company Limited (In Administration)* [2016] EWHC 2827 (Ch), helpfully set out the jurisdiction of the court to wind up a company even if, as in this case, no petition has been presented. Norris J was relying on the explanation provided by Neuberger J, as he then was, in *Lancefield v Lancefield* [2002] BPIR 1108. As in Graico, WEQEM is before the court in connection with the discharge of its administrators and the bringing to an end of the administration. In bringing the administration to an end, something must be done with this company. It would not be right in the circumstances of this matter for WEQEM to be returned to the control of its directors. It is plainly an insolvent company, it is unable to pay its debts, and it is unable even to pay costs orders that have relatively recently been made against it.
11. In all the circumstances, having discharged the administrators, I will make an order winding up the company WEQEM and will appoint the former administrators to be the liquidators, the issue with regard to the discharge of their liabilities being held over. There is no objection from any of the creditors to that course being taken, and I will order that the costs of this application to be treated as an expense of the administration.