

TRANSCRIPT OF PROCEEDINGS

Ref. CR-2018-000916

**IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
INSOLVENCY AND COMPANIES LIST (ChD)**
Neutral Citation Number: [2018] EWHC 815 (Ch)

Fetter Lane
London

Before THE HONOURABLE MR. JUSTICE MARCUS SMITH

IN THE MATTER OF SOVEREIGN HOSPITAL SERVICES LIMITED Petitioner

-and-

IN THE MATTER OF THE INSOLVENCY ACT 1986

-and-

IN THE MATTER OF AN APPLICATION BY THE OFFICIAL RECEIVER Applicant

MR. MATTHEW ABRAHAM appeared on behalf of **the Petitioner**

MR. ANDREW WESTWOOD appeared on behalf of **the Applicant**

JUDGMENT
2nd FEBRUARY 2018
(AS APPROVED)

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MR JUSTICE MARCUS SMITH:

1. I have before me an application by the directors of Sovereign Hospital Services Limited. The application is that Sovereign Hospital Services Limited (“Sovereign”), company number 03232308, be wound up under the provisions of the Insolvency Act 1986.
2. The application is an urgent one, and for those reasons I am further asked to order that the return date for the petition be vacated and that the petition come on to hearing forthwith and that notice of the petition be dispensed with.
3. The situation is that Sovereign is part of the Carillion Group and its affairs are intrinsically entwined with the affairs of Carillion plc.
4. As is well known, on the morning of 15 January 2018, Mr. Justice Morgan made orders winding up Carillion plc and five other companies in that group. The effect of those winding up orders was that the Official Receiver became the liquidator of those companies.
5. The position is that many companies in the Carillion group are affected by this liquidation of their parent. The group’s cash was managed centrally and the short position is that Sovereign is now, as I speak, cash flow insolvent. The company simply does not have any cash in order to meet its liabilities as they fall due. It is also balance sheet insolvent. That is simply a consequence of the financial position and orders that have been made in relation to its parent company.
6. Mr. Abraham, who appears for the directors of Sovereign, in his helpful written submissions, sets out three options for my consideration. In reality, however, those three options boil down to a single option. I shall explain why.
7. The first option is for Sovereign to continue trading. That, of course, simply cannot be contemplated. The approach is neither viable nor a proper one for the directors of Sovereign to take. The company would be trading whilst insolvent and the directors quite properly have taken the view that that is an option that is not to be contemplated.
8. The second option is one that would ordinarily suggest itself. That would be for Sovereign to enter into administration. However, an administration order would require an approved office holder to be prepared to accept appointment as administrator. That, at least if one is seeking a respectable and competent administrator capable of taking on this job, requires funding and there is no funding available to support an administration.
9. The group has, I should note, sought funding from existing lenders and from the Government but the position is that there is no funding available. Since that is the case, and I have seen the evidence of Ms Mercer and Mr Cochrane dealing with this point, it is clear that however desirable administration might be, it is not an option that I can contemplate today.
10. That leaves the final option, which is the one that is advocated for, which is compulsory liquidation. That would ensure that the company’s assets are distributed in accordance with the statutory insolvency scheme and will also ensure that the Official Receiver will take over as liquidator pursuant to section 136(2) of the Insolvency Act 1986.

11. The Official Receiver, who is represented before me today, and from whose representative I will shortly hear, is willing to consent to be appointed as liquidator on an expedited basis and will be seeking various orders in support of that appointment in due course.
12. In these circumstances, I am satisfied that I have jurisdiction to make the order that is sought by the directors and I refer in this regard to paragraph 25 of Mr Abraham's skeleton argument.
13. I am satisfied that the directors of Sovereign have considered the options available to them and have quite properly resolved to put the company into liquidation and it seems to me, given the evidence that I have seen and the submissions that I have read and heard, that is entirely the right course to take.
14. Accordingly, I am minded to make an order in the terms sought by the petitioner. I do not make that order at this point in time simply because I wish to hear from the Official Receiver before I do so. But I make clear that I will be prepared to make an order in the terms of the draft before me.

(After hearing submissions from the Official Receiver)

15. I have before me an unissued application which is related to the petition that I have just heard. This is an application which the Official Receiver undertakes to issue as soon as practically possible, which undertaking I note and record in the court's record but do not require to be reflected in the order.
16. The application is for an order that special managers of Sovereign be appointed over the estate and business of the company.
17. The reasons for the order which is sought under section 177 of the Insolvency Act 1986 is that the Official Receiver does not have the resources to manage the company or its wider group without the assistance of the three special managers who have been identified to me. It is stressed that it is very important that the affairs of the company and, indeed, other companies in the Carillion Group, be properly managed given their strategic importance to the country.
18. In these circumstances, it seems to me entirely right that I make the order appointing a special manager as I am invited to do as a corollary to the order winding up Sovereign.
19. Accordingly, I therefore make now the first order winding up the company and I hope that court staff can, with their usual efficiency, get that order sealed right away.
20. I similarly make an order, as invited by the Official Receiver, for the appointment of special managers and that order I make also now.

We hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

This transcript has been approved by the Judge