

Ref. 1869 of 2015

Incorporating:
Margaret Wort & Co
WB Gurney & Sons

NEUTRAL CITATION NUMBER: [2018] EWHC 4282 (Ch)
IN THE HIGH COURT
ROLLS BUILDING

Royal Courts of Justice, 7 Rolls Buildings
Fetter Lane, London
EC4A 1NL

Before

MR JUSTICE NORRIS

IN THE MATTER OF

ANTIC DESIGN LTD

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MR PHILIP HINKS OF COUNSEL (INSTRUCTED BY DMH STALLARD LLP) FOR
THE APPLICANT
13th November 2015, 10:30-11.00

JUDGMENT

If this Transcript is to be reported or published, there is a requirement to ensure that no reporting restriction will be breached. This is particularly important in relation to any case involving a sexual offence, where the victim is guaranteed lifetime anonymity (Sexual Offences (Amendment) Act 1992), or where an order has been made in relation to a young person.

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MR JUSTICE NORRIS:

1. This is an application for an administration order. The application is granted. The time of the order is 10.50 am; and I will give a short statement of reasons.
2. Antic Design Ltd (“Design”) provides design and build services for companies which operate pubs. One of its principal clients is a connected company called Antic Ltd, which itself went into administration owing Design something in excess of £250,000. Non-payment of this debt has destabilised Design. Under the mode of operation of Design, it did not account for tax in respect of some of the people who worked for it on (ostensibly) a sub-contract basis. HMRC have now presented a petition for unpaid national insurance contributions and associated taxes attributable to these workers in the sum of £467,236 odd. It is accepted by Design that there is no answer to the petition.
3. The present application is by the sole director of Design for the making of an Administration Order in the face of that petition. The petition itself has been adjourned to permit the making of this application. The petitioning creditor does not object to the relief sought on this application. I am satisfied that the company is insolvent and unable to pay its debts. It is plainly cashflow insolvent in the light of the undisputed petition. It is also balance sheet insolvent, taking into account the inability of its connected company to pay its debts.
4. The objective of the administration is to achieve a better outcome for creditors than could be achieved were Design immediately to enter liquidation. I have been taken to an estimated outcome statement that supports the view of the proposed administrators that that outcome is reasonably likely to be achieved. The objective is reasonably likely to be achieved for four reasons.
5. First, there is a significant saving on the Insolvency Services account (compared with a liquidation). Second, Design’s sole director has agreed to waive his director’s loan account which stands in the sum of some £4,000 odd. Third, the sole director has

agreed to inject into the administration estate the sum of £150,000. Fourth, one unconnected creditor has (in the event of an administration) agreed to waive a debt in the sum of £42,341 and is likely to stand by that agreement. (Further, Design itself has a prospect, which I would not like to take into account for the purposes of this application, of securing a waiver of other inter-company indebtedness).

6. In the circumstances, the anticipated dividend rises from about 4 pence in the pound in compulsory liquidation to something over 25 pence in the pound in administration. I am satisfied that the opinion of the proposed administrators that a better outcome is likely to be achieved is a sound one.

7. There are no reasons in discretion to withhold the making of an Administration Order. Indeed, I find reasons why it *should* be made. The sole director intends both to waive his own loan account and to inject substantial funds into the administration estate. That is commendable conduct and ought to be supported by the Court. In the circumstances, I shall make the Administration Order sought.

MR HINKS: My Lord, I'm grateful. Are there any changes to be made to the draft order apart from deleting the word 'draft' and inserting the time?

MR JUSTICE NORRIS: I think I have to also dismiss the petition....

MR HINKS: Your Lordship is correct because this is an order.

MR JUSTICE NORRIS: ...and make provision for the payment of the petition costs. The usual order, unless you seek to say otherwise, is that the petitioners' costs of the petition should be treated an expense of the administration.

MR HINKS: I think in fact, my Lord, if a petition isn't before you, it will come before the court on Monday in the winding up list. The registrar will be told that the company has gone into administration and the petition will be dismissed with the usual order at that point.

MR JUSTICE NORRIS: Right. My ordinary practice certainly is to call the petition on before me, even though it is not formally before me, because dismissal is the inevitable consequence of making the Administration Order. But the gap until the petition hearing date is short: you say it's Monday. So I do not suppose it matters.

MR HINKS: I'm grateful.

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