

Restructuring Case Studies demonstrating constructive use of formal insolvency procedures

mercero & hole
chartered accountants



MERIDIEN

- Meridien owned a number of hotels worldwide, two of which were the Grosvenor House and the Waldorf in London.

Background

- The group underwent a substantial restructuring of its financing arrangements in 2001, and as a result the companies operating the hotels and their respective property holding companies were placed into administrative receivership in July 2001.
- The businesses of the hotels were sold in November 2001, although the receivers continued to deal with the collection of book debts.

Mercer & Hole's involvement

- The receiverships were coming to an end in 2005 and Mercer & Hole were approached to deal with the liquidations of the four companies. This part of the restructuring process was designed to ensure that there were no loose ends after the receiverships.
- A key issue was to explore whether the group's transactions and financing agreements had given rise to any antecedent transactions that should be overturned for the benefit of unsecured creditors. We were satisfied after extensive investigation that there were none.

UK CAN

The company

- A £100m turnover international group.

The Assignment

- The conclusion of the financial, corporate and pensions restructuring of this group by liquidating the three relevant UK based companies after a cleared and validated defined benefit pension scheme compromise.

Mercer & Hole's involvement

- The restructuring of the group involved the sale of the three companies' businesses which enabled trading to continue thereby saving numerous jobs. Trade creditors were transferred to the purchaser as part of the sale agreement.
- The three companies were historically all party to a pension scheme with an estimated £27m deficit on a Section 75 buy out basis (at that date), and the Pension Regulator agreed to a compromise payment to the pension scheme, as a result of which the scheme was no longer a creditor of the companies. Consequently, on liquidation the only remaining creditors of the companies were inter-company loans from their parent company.
- The liquidation of the companies allowed the pension scheme to enter an assessment period with the PPF, and the companies' residual assets to be distributed to the parent company.

- The liquidators were still obliged to deal with the Section 120 (Pensions Act) reporting obligations of an officeholder. Careful consideration had to be given to this as the regulations are not clear where a company has entered into a compromise prior to formal insolvency proceedings commencing. We negotiated with the PPF and made clear how such compromises should be dealt with.
- It was also a concern of all stakeholders that the companies went through the formal liquidation process and that all transactions were properly reviewed.

STANFORD

The Company

- A holding company with just two assets of cash at bank and shares in its AIM listed subsidiary. The company had eight shareholders, of which four were individuals, and four were executors or trustees of trusts.

The Assignment

- It was decided that some shareholders would realise part of their investments and the company was no longer required.

Mercer & Hole's Involvement

- Mercer & Hole advised that the company should be placed into members voluntary liquidation with a Section 110 reconstruction taking place.
- The reconstruction was that the cash would be distributed, and the shares would be transferred by the liquidators to another holding company in exchange for shares in the new company, which would then be distributed to the shareholders.
- The benefit of this was that the shareholders were separately able to elect whether they received their entitlement in cash alone, or cash and shares depending on their needs and expectations from their investment.
- Full tax clearance cannot be obtained for such transactions pre-liquidation and hence routinely a portion of funds is retained to meet any potential liability. However, in this case the funds were to be distributed in full on the date of liquidation. To meet this added complexity, we established a mechanism by which we made full distributions to the shareholders but still had access to funds to meet the taxation and other costs of the liquidation.

SPENNYHALL

The Company

- The UK trading entity of a £300m turnover group.

Background

- The group was undergoing significant balance sheet reconstruction and had a pension scheme deficit of c.£38m.

Mercer & Hole's involvement

- A special purpose vehicle (SPV) was incorporated to become a scheme employer and, with the clearance of the Pensions Regulator, to assume the deficit bar £1.
- The SPV then entered into a company voluntary arrangement drafted by Mercer & Hole, with two of Mercer & Hole's insolvency partners acting as joint supervisors. This meant that the pension scheme could enter into an assessment period with the PPF.
- All of the above required close liaison with the group companies' management, the scheme trustees, the PPF, the Pensions Regulator and all parties' professional advisors.
- The result was that the UK operation could continue to trade with 400 jobs being saved, having compromised the pension burden, and the PPF has taken responsibility for the pension scheme in consideration for an equity share in the UK trading company.

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