



CR-2020-004239

THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
INSOLVENCY AND COMPANIES LIST

Before ICC Judge Prentis
1 July 2021

IN THE MATTER OF CLUB LA COSTA (UK) PLC

AND IN THE MATTER OF THE INSOLVENCY ACT 1986

B E T W E E N:

JOHNNY ROSSELL ABUGAN & Others

Applicants

- and -

(1) ANTONY NYGATE
(2) MARK SHAW
(3) CLUB LA COSTA (UK) PLC

Respondents

ORDER

UPON THE APPLICATION of the Applicants dated 2 June 2021 (the “**Paragraph 88 Application**”)

AND UPON THE APPLICATION of the Applicants dated 14 April 2021 (“**the Meeting Application**”)

AND UPON READING the evidence filed

AND UPON HEARING by Microsoft Teams Matthew Collings QC for the Applicants and Charlotte Cooke of Counsel for the Respondents in each of the said Applications

AND UPON the Court determining that it is appropriate that Antony Nygate and Mark Shaw be removed as administrators of Club La Costa (UK) plc, that Paul David Allen and Geoffrey Lambert Carton-Kelly be appointed as administrators, and that there be a handover period

AND UPON the parties and the respective appointees agreeing the terms of this Order subsequent to the hearing

IT IS ORDERED THAT:

1. Paul David Allen and Geoffrey Lambert Carton-Kelly (“**the New Joint Administrators**”) be appointed as joint administrators of Club La Costa (UK) Plc (“**the Company**”) from 9am on 26 July 2021.

2. Antony Nygate and Mark Shaw (“**the Outgoing Joint Administrators**”) be removed from office as administrators of the Company with effect from 6pm on 20 September 2021.

3. During the period from 9am on 26 July 2021 to 6pm on 20 September 2021 (“**the Handover Period**”):

(1) the Outgoing Joint Administrators’ functions shall be limited to those necessary for the handover of the Company’s administration to the New Joint Administrators, being the following (collectively “**the Handover Functions**”):

- a. discharging costs and expenses incurred in the Company’s administration;
- b. sending notifications, reports and other communications to creditors;
- c. acknowledging receipt of inbound queries and directing them to the New Joint Administrators;
- d. such other tasks as may be agreed in writing between the Outgoing Joint Administrators and New Joint Administrators from time to time during the Handover Period;

(2) all or any Handover Functions to be performed by the Outgoing Joint Administrators may be done by all or any one of the Outgoing Joint Administrators;

- (3) all other functions in relation to the Company's administration are to be exercised by the New Joint Administrators and may be done by all or any one of the New Joint Administrators;
 - (4) the Outgoing Joint Administrators shall not be liable for: (a) any costs and expenses incurred by the New Joint Administrators; or (b) any acts or omissions done or the exercise of any functions by the New Joint Administrators.
4. During the Handover Period, the Outgoing Joint Administrators shall provide to the New Joint Administrators:
 - (1) the pre-appointment books and records of the Company; and
 - (2) such post-appointment records as the Outgoing Joint Administrators consider necessary for the New Joint Administrators to perform their functions, it being acknowledged that internal communications, working papers or material subject to legal advice or litigation privilege that is, either solely or jointly, that of the Outgoing Joint Administrators shall not be provided.
5. During the Handover Period, the Outgoing Joint Administrators shall respond to any queries that the New Joint Administrators may have and shall provide such further post-appointment records as the New Joint Administrators may request that are necessary for the New Joint Administrators to perform their functions, providing that the Outgoing Joint Administrators shall not be required to provide any post-appointment records that comprise internal communications, working papers or materials subject to legal advice or litigation privilege where such privilege is, either solely or jointly, that of the Outgoing Joint Administrators.
6. After the Handover Period comes to an end at 6pm on 20 September 2021, all or any functions to be performed by an administrator of the Company may be done by all or any one of the New Joint Administrators.
7. The Outgoing Joint Administrators' remuneration to 12 July 2021 is fixed in the sum of £438,697 plus VAT.

8. The Outgoing Joint Administrators' remuneration from 13 July 2021 is fixed on the basis of the time properly given by the Outgoing Joint Administrators' and their staff in attending to matters arising in the Company's administration, with a fee estimate of £54,475 plus VAT.
9. The Outgoing Joint Administrators shall arrange for the transfer of the cash they hold on behalf of the Company to an account directed by the New Joint Administrators ten business days prior to the date of their removal.
10. The Outgoing Joint Administrators shall not be liable for any costs and expenses incurred by them but not yet paid prior to the date of their removal, such costs and expenses to be paid by the New Joint Administrators.
11. The Outgoing Joint Administrators shall be paid their fees and expenses for any assistance they provide to the New Joint Administrators after the date of the removal of the Outgoing Joint Administrators, such fees to be calculated on the basis of the time properly given by the Outgoing Joint Administrators' and their staff in providing such assistance, and such fees and expenses to be paid by the New Joint Administrators as an expense of the Company's administration.
12. The Outgoing Joint Administrators be discharged from liability pursuant to paragraph 98 of Schedule B1 to the Insolvency Act 1986 with effect from the date of their removal.
13. The Applicants' costs of the Paragraph 88 Application shall be an expense of the Company's administration provided that if the assets are insufficient to satisfy the liabilities otherwise provided for by Rule 3.51(2) as well as the preferential creditors of the Company such costs shall (pursuant to Rule 3.51(3)) rank behind all such liabilities in order of priority.
14. The Respondents' costs of the Paragraph 88 Application shall be an expense of the Company's administration.
15. The Meeting Application is dismissed.

16. The Respondents' costs of the Meeting Application shall be an expense of the Company's administration.

17. Liberty to apply.

**A sealed copy of this Order has been provided to the Applicants' solicitors:
Clarke Willmott LLP**