

**IN THE ROYAL COURT OF GUERNSEY
(ORDINARY DIVISION)**

**IN THE MATTER OF
MAPLECROSS PROPERTIES LIMITED
(IN LIQUIDATION)**

- And -

**IN THE MATTER OF
THE COMPANIES (GUERNSEY) LAW, 2008 (AS AMENDED)
("THE LAW")**

Decision on Application by Joint Liquidators, dated 5th December, 2019

Decision handed down on: 14th January, 2020

Before: John Russell Finch, Esq., O.B.E., Judge of the Royal Court

1. I have considered this matter on the papers. There has been some delay in responding due to the interposition of the Christmas and New Year festivities, as well as court commitments. My involvement was simply due to other judges being unavailable, as well as absences from the Island. In other words, I was the only one able to assist at that juncture.
2. In respect of the application of section 417 of the Law, to allow for interim distributions to creditors and members of a company in compulsory liquidation, I have considered the skeleton argument put forward and the considerable amount of paperwork produced in this matter, from all sources. The Commissioner sought the advice of a judge – very properly, in view of the circumstances. In my judgment, in accordance with the advice, section 417 does not provide for the making of interim distributions and if the liquidators wish to make a payment at this stage, they should seek directions from the Royal Court under section 426 of the Law. This is based on the view that once a liquidator has fulfilled the task of realising a company's assets section 417 is engaged – but this relates to the final accounts and proposals to distribute. Anything prior to that has to be dealt with by a directions application. That is set out so the position is clearly understood. The actual advice is not something that can be copied to Ogier, and it would not be right to do so. I should also point out that it is inappropriate for judges on the same level dealing with a case at different stages to act as some sort of appellate tribunal.
3. 'Judge-shopping' is neither desirable nor feasible. The only reason I am dealing with this is as stated above. Nor does the rather tart observation in Ogier's letter of 10th October, 2019 on how the Commissioner's functions are viewed help, when subsequently viewed in cold and unsympathetic print. In addition, the (presumably inadvertently) copied internal e-mail dated 24th September 2019 is noted, and its tone and contents jar. The Commissioner (who

incidentally, has a lifetime of high-level accountancy experience), should receive the cordial help and understanding of Advocates when fulfilling such a responsible task. Enough paper has been generated already, so we now need to proceed as simply as possible to enable this matter to be closed.

4. Accordingly, Ogier may now wish to proceed with a directions hearing along the lines set out at paragraphs 29 to 33 of their skeleton, under section 426 of the Law, and paragraph 2 of their original application. The helpful guidance on compulsory winding-up in McPherson's Law of Company Liquidation, Chapter 9, Section II is noted. Without going into any detail, there is correspondence from other law practices, notably Babbè. Whilst it would be the norm for the application to be ex-parte, Ogier are asked to consider if any notice needs to be given – see paragraph 0-047 and footnote 23 of McPherson. The contents of paragraph 7(g) of the skeleton argument are noted, and whilst no-one normally needs to have notice, this should be considered. I have not, in the interests of brevity and time, gone over all the correspondence mentioned as I want to press on with this.
5. Could Deputy Greffier Chapman (or his co-adjutor) be contacted, please, in order to arrange a mutually convenient half-day hearing for this application, should Ogier wish to proceed as set out? I would sit alone, as this is in my judgment a procedural point and involves the resolution of matters of law.

J R Finch, O.B.E.
Judge of the Royal Court

14th January 2020