

AFAN VALLEY LIMITED
10120 02



IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
INSOLVENCY AND COMPANIES LIST (ChD)

IN THE MATTERS OF MBI HAWTHORN CARE LIMITED, MBI CLIFTON MOOR LIMITED, MBI
WALSDEN CARE LIMITED AND AFAN VALLEY LIMITED
AND IN THE MATTER OF THE INSOLVENCY ACT 1986

BEFORE ICC JUDGE BARBER
ON 4 JULY 2019



BETWEEN

- (1) MR VIJAYAKUMAR DEVADOSS
- (2) MRS ANITA DEVADOSS
- (3) MRS LINDA ALLAWAY
- (4) DR ARUN AGGARWAL
- (5) DR RITA AGGARWAL
- (6) MS ASHA AGGARWAL
- (7) DR VEENA AGGARWAL

Applicants

and

- (1) MBI HAWTHORN CARE LIMITED
- (2) MBI CLIFTON MOOR LIMITED
- (3) MBI WALSDEN CARE LIMITED
- (4) AFAN VALLEY LIMITED

Respondents

**ORDER OF APPOINTMENT OF INTERIM MANAGERS
PURSUANT TO PARAGRAPH 13(1)(d) OF SCHEDULE B1
TO THE INSOLVENCY ACT 1986**

UPON THE APPLICATION of the above-named Applicants as creditors of MBI Hawthorn Care Limited, MBI Clifton Moor Limited, MBI Walsden Care Limited and Afan Valley Limited (collectively, 'the Companies') for an order that Philip Francis Duffy and Sarah Helen Bell of Duff & Phelps Limited be appointed joint administrators of each of the Companies ('the Administration Application')

AND UPON THE APPLICATION of the above-named Applicants for the appointment of Philip Francis Duffy and Sarah Helen Bell of Duff & Phelps Limited as Interim Managers of MBI Hawthorn Care Limited, MBI Clifton Moor Limited and Afan Valley Limited pursuant to Paragraph 13(1)(d) of Schedule B1 to the Insolvency Act 1986 pending final determination of the Administration Application or further order ('the Interim Application')

AND UPON reading the First, Second and Third Witness Statements of Mr Philip Francis Duffy dated 27 June 2019 and 3 July 2019, Mr Vijayakumar Devadoss dated 23 June 2019, Mrs Linda Allaway dated 22 June 2019 and Dr Arun Aggarwal dated 19 June 2019 and their respective exhibits

AND UPON reading the Witness Statements of Mr Gavin Lee Woodhouse and Robin Scott Forster, each dated 3 July 2019

AND UPON hearing Mr Paul O'Doherty of Counsel for the Applicants, Ms Carly Sandbach of Counsel for the First, Second and Fourth Respondents and Mr Matthew Bradley for the Third Respondent

AND UPON the Court being satisfied, in relation to each of the Companies, that the EU Regulation does apply and that these are main proceedings

AND UPON Mr Robin Scott Forster on behalf of himself and MBI Walsden Care Limited ("Walsden") by Counsel undertaking to the Court that Walsden will not dissipate or deal in any way with its assets and that it will preserve all company books and records, pending determination of the Administration Application

IT IS ORDERED THAT the time for hearing the Administration Application be abridged to today

AND IT IS ORDERED THAT Philip Francis Duffy and Sarah Helen Bell of Duff & Phelps Limited be and are hereby appointed as Interim Managers of each of MBI Hawthorn Care Limited, MBI Clifton Moor Limited and Afan Valley Limited at 12:40 on 4 July 2019 pursuant to Paragraph 13(1)(d) of Schedule B1 to the Insolvency Act 1986 pending final determination of the Administration Application or further order **AND THAT** any function or power which the said Philip Francis Duffy and Sarah Helen Bell may exercise as Interim Managers pursuant to this Order may be exercised by any or all of the persons so appointed

AND IT IS ORDERED THAT, in relation to each of MBI Hawthorn Care Limited, MBI Clifton Moor Limited and Afan Valley Limited, (hereafter referred to in the singular as 'the Company'), the functions and powers of each of the Interim Managers shall extend to the following acts, that is to say:

1. To enter and/or remain upon the Company's premises and, for the avoidance of doubt, any other premises to which the Company has a right to enter and/or remain and to secure the premises with new locks if required
2. To take possession of, collect in and protect and preserve all the assets property and/or things in action to which the Company is or appears to be entitled including any third party or trust monies, or any assets in the possession of or under the control of the Company in this country or abroad,

such assets not to be distributed or parted with until further Order except pursuant to the functions and powers hereby conferred

3. To take possession of and secure the books and records of the Company including the accounting and statutory records, to include immediate access to such records notwithstanding that they may be intermingled with the records of other companies and/or third parties without obstruction or delay. Any third parties affected by this provision shall have liberty to apply to the Court for variation of the same on not less than 2 business days' written notice to the parties
4. To continue, if and to the extent that they consider it appropriate and necessary, to operate the business of the Company
5. To investigate the affairs of the Company insofar as they consider it necessary (with a view to tracing and protecting the assets of the Company) and to investigate any transactions entered into by the Company and/or any dispositions made by the Company which may have resulted in and/or involved the dissipation and/or reduction in value of all or any of the Company's assets or which in the event that an administration order is made may be recoverable pursuant to the provisions of the Insolvency Act 1986
6. Without prejudice to the generality of the foregoing, to continue or commence such action in this country or abroad for the protection and/or for the recovery of documents assets property and/or things in action as may be required and to seek such interlocutory relief as they shall think fit

AND IT IS FURTHER ORDERED that the Interim Managers shall each have the following powers:

- (a) To bring or defend any action or other legal proceeding in the name and on behalf of the Company for the purposes of carrying out the functions specified in this Order
- (b) To retain and pay or dismiss employees at their discretion
- (c) To provide information as necessary to any third parties who have had dealings with the Company pending determination of the Administration Application, in particular, to contact the investors of the Company to advise them of the Interim Managers' appointment and to provide such investors or other third parties with information concerning any contact they may receive or may have already received from the Company or its sales agents regarding their investments
- (d) To terminate, complete, compromise or perfect as advised any contracts or transactions relating to the business of the Company or involving transactions relating to assets of the Company including any clients and trust monies in the possession of or under the control of the Company
- (e) To return to the payor any monies received after the date of this Order from members of the public for goods and services which in the opinion of the Interim Managers the Company will be unable to provide

- (f) Without prejudice to the generality of the foregoing, to sell in the ordinary course of the Company's business any of the Company's trading stock by public auction or private contract with power to transfer the whole of it to any person or to sell the same in parcels
- (g) To do all acts and execute, in the name and on behalf of the Company, all deeds, receipts and other documents and for that purpose to use when necessary the Company's seals
- (h) To change the registered office of the Company
- (i) To exercise any right that the Company may exercise by reason of its interest in any partnership
- (j) To engage all such solicitors, other agents and specialists as may be necessary to assist them in the carrying out of their functions and the exercise of their powers under this Order
- (k) Without prejudice to the generality of the foregoing, to value any asset of the Company or any interest it may have in an asset (including any thing in action)
- (l) Without prejudice to the generality of the foregoing to take possession, protect and secure all monies held in any existing bank accounts and/or escrow accounts of the Company and to take control of such accounts where appropriate freeze or retain and operate the bank accounts and to open and operate new accounts and with liberty to pay therefrom any returns to clients and/or necessary expenses incurred on behalf of the Company in the carrying out of their functions and the exercise of their powers specified in this Order, any balance exceeding immediate requirements to earn interest with such banks and escrow agents on deposit account
- (m) To redirect the Company's electronic mail accounts and continue to operate, close, redirect, or otherwise to control the Company's sites on the Internet, World Wide Web or other electronic media or systems as may be necessary
- (n) To require and obtain all passwords and log in details required to access all computers, PDAs and other electronic data storage devices and/or communication media including mobile telephones
- (o) To take possession of and/or to remove all property assets and/or records including any electronic data storage and/or communication media to which the Company is or appears to be entitled and to make such forensic copies of the information stored thereon as may be necessary for the purposes of carrying out their functions
- (p) To do all such other things as may be necessary for taking into their custody or under their control all the property and things in action to which the Company is or appears to be entitled and/or for the purposes of carrying out any of their functions under this Order
- (q) To pay the Interim Managers' remuneration and disbursements, in sums fixed and approved by the Court, out of the assets of the Company

AND IT IS FURTHER ORDERED that the costs of the Interim Application (including the costs of today) be reserved to the final hearing of the Administration Application

AND IT IS FURTHER ORDERED that the Interim Managers do have general liberty to apply for such further directions or Orders as may in their opinion be necessary or appropriate

AND IT IS FURTHER ORDERED that the directors of each of MBI Hawthorn Care Limited, MBI Clifton Moor Limited and Afan Valley Limited shall be at liberty to prepare serve and file written evidence in answer to the Administration Application on its behalf, to exchange and file skeleton arguments in answer to the Administration Application, to make representations at the final hearing of the Administration Application and to apply for variations to this Order on not less than 2 clear business days' written notice to the Applicants and the Interim Managers. Save as aforesaid the authority of the directors of each of MBI Hawthorn Care Limited, MBI Clifton Moor Limited and Afan Valley Limited to control its property affairs and management is hereby suspended with effect from 12:40 pm on 4 July 2019 pending final determination of the Administration Application or further order. Responsibility for each said company's property affairs and management shall pass to the Interim Managers with effect from 12:40 pm on 4 July 2019.

AND IT IS FURTHER ORDERED THAT the Administration Application shall be listed for final hearing on an expedited basis on the first available date after 23 August 2019 with a time estimate of two days. Each of the Companies shall be at liberty to file and serve written evidence in answer to the Administration Application by 4 pm on 2 August 2019. The Applicants are at liberty to file and serve written evidence in reply by 4pm on 16 August 2019. The Applicants shall prepare and lodge a bundle for use at the final hearing not less than 3 business days ahead of the hearing date. The parties shall exchange and lodge skeleton arguments not less than 2 business days ahead of the hearing date.

AND IT IS FURTHER ORDERED that the Applicants shall be the serving party.

Service of this order

The Court has provided a sealed copy of this order to the serving party:

Hewlett Swanson Limited, Centurion House, 129 Deansgate, Manchester M3 3WR

Ref: ZM/LRD/DEV2.1