

IN THE COURT OF SESSION
CERTIFIED COPY INTERLOCUTOR
IN THE PETITION

of

WILLIAM CONNELL, 183 Sandpiper
Drive, East Kilbride, South Lanarkshire,
G75 8UL

for

An order to restore BABCOCK
WELDING PRODUCTS LIMITED ("the
Company") to the Register of
Companies and incidental matters in
terms of Sections 1029 and 1030 of
the Companies Act 2006.



15 December 2023

Lord Sandison

The Lord Ordinary, having resumed consideration of the petition and proceedings, no answers having been lodged and on the motion of the petitioner:

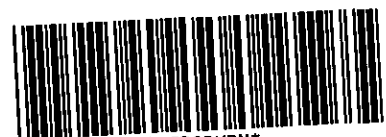
1. orders that Babcock Welding Products Limited (Company Number: SC006601), be restored to the Register of Companies in terms of section 1029 and section 1030 of the Companies Act 2006, such restoration to take effect on a copy of this order being delivered to the Registrar;
2. directs the Registrar of Companies to publish in The Edinburgh Gazette notice of the restoration of the Company to the Register;
3. authorises the expenses of this petition and the procedure following thereon, including any expenses to be paid to the Registrar in connection with the proceedings for the restoration of the Company to the register, to be paid out of the first and readiest funds of the Company, and decerns.

Signed by Craig Sandison

EDINBURGH 15th December 2023
CERTIFIED A TRUE COPY

Liam Watt

ASSISTANT CLERK OF SESSION



A15 *ACIS3UBM* 20/12/2023 #449
COMPANIES HOUSE



In the Court of Session

UNTO THE RIGHT HONOURABLE
THE LORDS OF COUNCIL & SESSION

P E T I T I O N

of

WILLIAM CONNELL, 183 Sandpiper
Drive, East Kilbride, South
Lanarkshire, G75 8UL

for

An order to restore BABCOCK
WELDING PRODUCTS LIMITED ("the
Company") to the Register of
Companies and incidental matters
in terms of Sections 1029 and 1030
of the Companies Act 2006.

HUMBLY SHEWETH:

1. The Company was incorporated on 10 August 1907 under the Companies Acts as a company limited by shares (company number: SC006601). The Company was incorporated under the name Penman & Co Limited. They changed their name to Babcock Scottish Fabrication Limited on 8 June 1976 and to Babcock Welding Products Limited on 24 December 1981. The registered office of the Company was situated in Scotland, latterly at Porterfield Road, Renfrew PA4 8DJ.

2. The objects for which the Company was established were *inter alia* to acquire and take over, as a going concern, the business of boilermakers and engineers carried on under the firm of Penman & Co. The Company's memorandum and articles of association are produced. The authorised share capital of the Company is £70,000 divided into 70,000 shares of £1 each.

3. The Company ceased to trade and was dissolved on 21 February 2014.

4. The Companies Act 2006 provides by section 1029:-

'(1) An application may be made to the Court to restore to the Register a company (a) that has been dissolved under chapter 9 of part 4 of the Insolvency Act 1986 . . . (dissolution of company after winding up) . . . (c) that has been struck off the Register. . .

(2) An application under this section may be made by – (f) any person with a potential legal claim against the Company . . .'

Section 1030 of the Act provides:-

'(1) An application to the Court for restoration of a company to the Register may be made at any time for the purpose of bringing proceedings against the company for damages for personal injury.

(2) No order shall be made on such an application if it appears to the Court that the proceedings will fail by virtue of any enactment as to the time within which proceedings must be brought . . .

(3) In making that decision the Court must have regard to its power under Section 1032(3) (power to give consequential directions etc) to direct that the period between dissolution (or striking off) of the company and the making of the Order is not to count for the purposes of any such enactment.

5. The Petitioner is William Connell, who lives at 183 Sandpiper Drive, East Kilbride, South Lanarkshire, G75 8UL. His Date of Birth is 14 January 1952.

6. From 1970/71 to 1973/74 the Petitioner was employed by the Company as an electrician. He worked at a factory which produced boilers. He worked alongside workers who cut and installed asbestos sheets which were used to line the boilers. Such activities gave rise to significant quantities of respirable asbestos dust. The Petitioner inhaled the dust and sustained respiratory injury as a result. He was not provided with any protective equipment nor was he warned of the dangers of asbestos.

7. The Company was in breach of its duties at common law to the Petitioner. The Company was also in breach of the Asbestos Regulations in force at the material time.

8. As a result of his exposure to asbestos the Petitioner has developed pleural plaques. He was diagnosed with pleural plaques following a chest x-ray carried out on 1 December 2020. Accordingly, the Petitioner has a claim for solatium against the Company.

9. Unless the Company is restored to the register the Petitioner will be unable to prosecute a claim for damages against the Company. In these circumstances the Petitioner has an interest to have the registration of the Company restored and respectfully submits that it is just that such restoration may be made.

10. The last known directors of the Company are Mark Allen and Kwang Seob Jung, designed in the schedule. The Company's employers' liability insurers during the period of the petitioner's employment with the Company were Chester Street Insurance Holdings Limited. They are insolvent. *Chester Street's employers' and public liability business has been in run-off since 1989.* On 19 December 2000 the directors of Chester Street proposed a Scheme of Arrangement under section 425 of the Companies Act 1985 ("the Scheme"). The Scheme was formally sanctioned by the High Court in England on 28 February 2001 and became effective on 5 March 2001. Chester Street continues in run-off under its Scheme. The Scheme Manager is PwC Business Services Ltd, designed in the schedule. A Warrant is sought to intimate the Petition on the directors and on the Scheme Manager.

11. This Application is made under the Companies Act 2006 Sections 1029 and 1030.

MAY IT THEREFORE please your Lordships to appoint this petition to be intimated on the walls in Common Form; to be advertised once in the Edinburgh Gazette Newspaper and to be served upon the persons named and designed in the schedule hereto and in the manner therein specified; and to be advertised in such manner, if any, as your Lordships may direct; to appoint all persons claiming an interest to lodge Answers hereto, if so advised, within 21

days, after such intimation, service and advertisement; and thereafter, upon resuming consideration hereof, with or without Answers, to restore BABCOCK WELDING PRODUCTS LIMITED (Company Number: SC006601) to the Register of Companies; and to direct the registration of the said Order by the Registrar of Companies in Scotland; and on the Order being so registered, to order notice of such registration to be advertised in the Edinburgh Gazette in the terms of the Court's Order, if any, as to the Court shall seem proper and to authorise the expenses of this petition and the procedure to follow hereon to be paid out of funds of the Company; and to decern; or to do further or otherwise as to your Lordships shall seem proper.

ACCORDING TO JUSTICE, ETC.

R Singer

SCHEDULE FOR SERVICE

The persons upon whom service of the Petition in Common form is sought:

1. King's and Lord Treasurer's Remembrancer, KLTR Office, Scottish Government Building, 1F Victoria Quay, Edinburgh EH6 6QQ
2. The Registrar of Companies in Scotland, 4th Floor, Edinburgh Quay 2, 139 Fountainbridge, Edinburgh EH3 9FF.
3. Mark Allen, c/o Doosan Power Systems SA, Doosan House, Crawley Business Quarter, Manor Royal, Crawley, West Sussex RH10 9AD.
4. Kwang Seob Jung, c/o Doosan Power Systems SA, Doosan House, Crawley Business Quarter, Manor Royal, Crawley, West Sussex RH10 9AD.
5. Chester Street Insurance Holdings Limited, c/o PwC Business Services Ltd, 5 Godwin Street, Bradford, BD1 2AH.