

**EASTERN CARIBBEAN SUPREME COURT
BRITISH VIRGIN ISLANDS**

**IN THE HIGH COURT OF JUSTICE
(COMMERCIAL DIVISION)**

BVIHC(COM) 132 of 2016, 133 of 2016 and 134 of 2016

IN THE MATTER OF THE INSOLVENCY ACT 2004

**AND IN THE MATTER OF PACIFIC ANDES ENTERPRISES (BVI) LTD
AND IN THE MATTER OF PARKMOND GROUP LTD
AND IN THE MATTER OF PARD TRADE LTD**

BETWEEN:

**(1) NICHOLAS JAMES GRONOW
(2) JOHN DAVID AYRES**

Applicants

and

JOSHUA JAMES TAYLOR

Respondent

Determined on paper:

The application was made on paper by Ms. Marcia McFarlane of Harneys

2020 October 15

JUDGMENT

[1] **JACK, J [Ag.]**: There are three applications before me for the removal of the respondent ("Mr. Taylor") as a liquidator of three separate companies in liquidation.

[2] In each case the applicants ("Mr. Gronow and Mr. Ayers") and Mr. Taylor were appointed as joint liquidators. Mr Taylor is moving firms and it is obviously sensible for him to cease to act, leaving Mr. Gronow and Mr. Ayers to continue to

act. Although it is possible to devise a protocol whereby Mr. Taylor could remain as a liquidator in his new firm, this would bring no advantage to the companies and lead to increased costs. In these circumstances I have no hesitation removing Mr. Taylor as one of the joint liquidators.

[3] This leaves the question of costs. The application as originally made sought an order that the costs of the three applications for removal be costs in the liquidation. I did not think that necessarily to be appropriate. I gave Harneys the opportunity to appear and argue for the costs order they sought, but Ms. McFarlane who was acting in the matter indicated that they did not wish for an oral hearing and were content that there should be no order for costs. In consequence no authorities have been cited to me.

[4] Albeit in the absence of authority, in my judgment, Ms. McFarlane was right to make that concession. Liquidators are in principle entitled to their costs of acting in that capacity. However, where an application for removal or substitution of a liquidator is made, the reason for the need for the application needs to be examined. There will be cases, for example, where a liquidator has died, where the costs of appointing a replacement are properly costs of the liquidation. Where, however, the need for removal or replacement arises out of a personnel issue, such as a liquidator moving firms, the costs of the removal or replacement should in my judgment ordinarily be matters for the internal overheads of the firm providing the liquidators.

Adrian Jack
Commercial Court Judge [Ag.]

By the Court

Registrar