



IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

FSD CAUSE NO. 205 OF 2017 (NSJ)

IN THE MATTER OF THE ESTATE OF ISRAEL IGO PERRY DECEASED

BETWEEN

(1) LEA LILLY PERRY
(2) TAMAR PERRY

Plaintiffs

and

(1) LOPAG TRUST REG.
(2) PRIVATE EQUITY SERVICES (CURAÇAO) NV
(3) FIDUCIANA VERWALTUNGSANSTALT
(4) GAL GREENSPOON
(5) YAEL PERRY
(6) DAN GREENSPOON
(7) RON GREENSPOON
(8) MIA GREENSPOON
(9) ADMINTRUST VERWALTUNGS ANSTALT

Defendants

**DECISION ON THE RECEIVERS' FEE APPROVAL
APPLICATION FOR 1 APRIL 2019 TO 31 MARCH 2020 -
(Application dealt with on the papers without a hearing)**

1. I have recently received the Plaintiffs' written objections (the *Objections Note*) to the Receivers' fees application (filed on 12 January 2021) and Mourant's email to the Court dated 19 January 2021 (which attached a copy of Mourant's letter to Walkers dated 23 December 2020).
2. I have now been able to review the Receivers' application (made by the summons dated 18 September 2020) and the evidence filed in support (including Mr. Royle's Tenth Affidavit, which I refer to as *Royle 10*) together with his earlier affidavit evidence, the related correspondence and documents filed with the Court, including the Objections.
3. I have concluded that the Receivers' application should be granted and that the Receivers' remuneration, including their costs, fees and disbursements for the period 1 April 2019 to 31



March 2020 (the *Period*), in the amounts claimed by the Receivers should be approved. The form of draft order provided by the Receivers is approved (save that Mr. Royle's Tenth Affidavit should be defined as *Royle 10* in the final recital; the reference to that affidavit in paragraph 1 should be amended to Royle 10 and paragraph 4 should be deleted). As I understand it, there is no issue as to the method by which BH06 is able to pay the fees.

4. I have carefully reviewed the information and documents provided by the Receivers in support of their application. I note that the Period covers a full year of work. In my view, the evidence filed by the Receivers demonstrates that the fees claimed are fair and reasonable in the circumstances, having regard to and applying the test and analysis set out in my judgment dated 20 April 2020 (dealing with the Receivers earlier fee approval application relating to the period 5 April 2018 to 31 March 2019). I consider that the quantum of remuneration for which approval is sought is reasonable and that the work done is value for money. I also consider that the allocation of work among the various fee earners who have worked on the receivership appears to be reasonable.

5. The Receivers have, in my view, provided sufficient information to support these conclusions. The table at paragraph 20 of Royle 10 shows the amount of time spent by each grade or level of fee earner working on the receivership on each issue or work stream. The table at paragraph 19 of Royle 10 describes the hourly rates charged by each grade of fee earner. It is therefore possible to ascertain the amount of time spent by each grade on each work stream. Paragraph 15 of Royle 10, together with the relevant parts of the Receivers' monthly reports (which were exhibited to Mr Royle's Eighth Affidavit), provide an explanation of and narrative regarding what was involved in each work stream. The information provided however does not provide details of which and how many fee earners were involved on each work stream nor is it clear precisely when within the Period the relevant work was done and therefore which charge out rate was applicable (the rates changed on 1 January 2020). It would have been preferable to have this information but I do not regard its absence as precluding the Court from assessing the fairness and reasonableness of the Receivers' fees in the present case. Nor have the Receivers provided details of each time entry of each fee earner with the related narrative explaining the activity in question on which the fee earner was working (as was provided previously in connection with the Receivers earlier fee approval application). Whether it is necessary for this level of detail to be provided is a matter of judgment depending on the circumstances. Where the detailed narratives are voluminous and there is no need for or benefit to be gained by a granular review of the officeholder's actions, then the daily time entries will not be required. This will often be the case where there is no objection to an officeholders' fees and there is a committee of creditors who have reviewed the reasonableness of the fees claimed. Where there

is an objection, the provision of such detail may but will not always be necessary. The key point is that the officeholder, in this case Court appointed receivers, must provide the Court with such information, in such detail, as is necessary to enable the Court to make an informed decision on the reasonableness and fairness of the remuneration claimed. In my view, in the case of this fee approval application, I do not consider that the Court needs to see and review further and more detailed narratives or fee earner entries.

6. So, for example, as regards the BGNIC/Leadenhall and GreetnWin/RECAP/Chelsea Associates work streams, which were the work streams to which most time was devoted, the table at paragraph 20 of Royle 10 states as follows:



	Receivers	Director	Manager	Senior	Total
BGNIC/Leadenhall	\$ 50,775.50	\$	\$6,499.00	\$14,110.00	\$71,384.50
GreetnWin/RECAP/ Chelsea Associates	55,036.00	2,115.00	6,499.00	20,638.00	84,288.00

7. The table at paragraph 19 of Royle 1 shows the relevant charge out rates. Using the rates that were applicable after 1 January 2020, the rates were as follows. The Receivers \$685; directors \$705; manager \$485 and senior \$340. Accordingly, the receivers spent approximately 74 hours; a manager or managers spent approximately 13.5 hours, and a senior member of staff spent approximately 41.4 hours on the BGNIC/Leadenhall work stream and the receivers spent approximately 80.3 hours; a director or directors spent 3 hours; a manager or managers spent approximately 13.5 hours, and a senior member of staff spent approximately 60.7 hours on the GreetnWin work stream. The amount of time spent on each of these work streams appears to me to be in accordance and consistent with the nature and importance of the task as described in the relevant narratives. The amount of time spent therefore does not appear to me to be excessive. I note that the Receivers did most of the relevant work on these tasks but consider that this was appropriate in view of their significance and the nature of the work involved. I have reviewed the information provided for the other work streams and have reached the same conclusions.
8. I have carefully considered the Plaintiffs' objections and concerns as set out in the Objections Note and the other correspondence (including the Plaintiffs' Preliminary Objections, as described in the Objections Note):



- (a). the Plaintiffs' specific challenges to items in the Receivers' account relate and are limited to US\$84,288 of costs incurred with respect to GreetnWin/RECAP/Chelsea Associates - see in particular the Objections Note at [2] (which states that "*However, the Plaintiffs consider that those responses are in some respects self-serving and continue to be material to the extent to which the application for the payment of fees should be allowed (amounting, as per paragraph 20 of Royle 10, to some US\$84,288)*") and [27] – [30].
- (b). the Plaintiffs main complaint concerns whether the action taken by the Receivers with respect to and in connection with the section 1782 applications was reasonable and therefore whether the fees charged in relation to that work stream are fair and reasonable in the circumstances. They explain (at [27] of the Objections Note) that "*The concern on this occasion is that the Receivers have ventured down an expensive and unnecessary road. Mr Jacob and Mr Lewis's offers of help were ignored, but then they were subjected to expensive coercive orders. It is difficult to understand how that course of action was reasonable.*" The Plaintiffs assert that "*there remain real doubts as to the necessity and utility of much of this work.*" The Plaintiffs also say that the Receivers have failed to provide adequate responses to their questions on this issue and adopted an antagonistic and aggressive tone.
- (c). it seems to me that the Plaintiffs' have not been able to raise serious doubts as to the reasonableness or propriety of the Receivers' conduct in connection with the section 1782 applications, let alone show that the Receivers' decision to assist GreetnWin's directors in obtaining information required to bring their financial records up to date and to commence the section 1782 proceedings in New York and New Jersey applications was inappropriate or improper. It seems to me that the Receivers were entitled to form the views they took, that such action was necessary and likely to be beneficial and that the time spent was consistent with the scale of the required exercise (I note that the Receivers refer in their monthly account for June 2020 to multiple subpoenas issued to various interested parties and their involvement in reviewing the documents produced as a result of the orders made pursuant to the section 1782 applications). If I had concluded that the Receivers' account of their action was seriously deficient or that there was sufficient evidence giving rise to serious concerns as to whether the Receivers had acted properly (or that the time spent was disproportionate or otherwise inappropriate), I would have ordered that the Receivers provide further explanations, information and detailed evidence as to their decision



making (perhaps with such explanations, information and evidence being made available at least initially only to the Court). However, I have concluded that there is no proper basis for doing so.

- (d). it follows that I do not accept the Plaintiffs' criticisms that the Receivers' reporting and accounts are seriously deficient. The Plaintiffs asserted (in [5], [6] and [7] of Plaintiffs' Objections) that they were disappointed "*that, once again, the Receivers have file[d] a fee application which does not provide any proper time detail by way of explanation of the work done, instead simply grouping work into broad work streams*" and that "*It would be extremely unusual for a shorthand approach such as this to be adopted for the approval of fees in a liquidation context, and it is unclear why a different approach should be adopted here. The Receivers are dealing with the Perry family's wealth (whether or not it is settled on trust) and ought to give full transparency on all sums spent. Absent such transparency, the ability of the Plaintiffs to properly understand and consider the expenditure incurred, and to formulate any objections thereto, is limited.*" I consider that the Plaintiffs, and the Court, have sufficient information from which to make an assessment of the fairness and reasonableness of the Receivers' remuneration. The Plaintiffs have serious concerns about the action taken by the Receivers in relation to the section 1782 applications and they have been able to set those out in their objections. The concerns relate primarily to the justification for the Receivers' action but, as I have explained, I do not consider that the concerns are made out or substantiated or that they affect or prevent the Court approving the Receivers' remuneration. Nor do they in my view entitle the Plaintiffs to interrogate or scrutinise the Receivers' detailed time entries.
- (e). the Plaintiffs have also explained that they are concerned that all detail from the Receivers' legal invoices has been removed "*such that what is presented is a bare claim for almost US\$200,000 in legal fees across a three-month period, with no further explanation whatsoever. The time detail was said to be "confidential or privileged", although why the Receivers should feel it appropriate to assert privilege (or indeed confidentiality) against the Perry family is unclear.*" In the circumstances, I consider that the Receivers' approach is reasonable. The Court has sufficient information regarding the broad nature of the advice sought from and the work done by the legal advisers and I see no basis or justification for challenging the Receivers' decision to approve the payment of these disbursements and fees or for requiring them to disclose to the Plaintiffs at this stage the detailed narrative of the matters on which advice was obtained.

- (f). finally, the Plaintiffs have expressed concerns regarding the Receivers' independence and attitude to the Plaintiffs. The Receivers have rejected the Plaintiffs' criticisms. I do not propose to explore these issues further at this stage. If the Plaintiffs wish to take their criticisms and challenges further they will need to decide when and how to do so. But I would say this. Even though in hostile litigation such as this case feelings run high, it is the responsibility of the attorneys and other professionals to maintain a measured, balanced and properly responsive approach. I would encourage the attorneys for the Receivers and the Plaintiffs to consider and discuss whether any steps can be taken to deal with the concerns that have been expressed and to avoid unnecessary friction or disputes in the future.

Mr. Justice Segal
Judge of the Grand Court, Cayman Islands
27 January, 2021

