IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

CAUSE NO. FSD 60 OF 2023 (IKJ)

IN THE MATTER OF SECTION 86 OF THE COMPANIES ACT (2023 Revision) (As REVISED)

AND IN THE MATTER OF ORDER 102 OF THE GRAND COURT RULES 1995 (AS REVISED)

AND IN THE MATTER OF JIANGNAN GROUP LIMITED 江南集團有限公司

IN CHAMBERS

Appearances:

Ms. Tonicia Williams of Conyers Dill & Pearman LLP for the Petitioner

Before: The Hon. Justice Kawaley

Heard: 16 May 2023

Date of Decision: 16 May 2023

HEADNOTE

Scheme of arrangement-privatization scheme-factors for consideration-Companies Act (2023 Revision) section 86

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EX TEMPORE JUDGMENT

Introductory

1. This is a Petition sealed on 8 March 2023 seeking the sanction pursuant to Section 86 of the Companies Act (2023 Revision) ("**Companies Act**") of a proposed Scheme of Arrangement ("**Scheme**") between the Petitioner Jiangnan Group Limited **江南集團有限公司** and the Scheme Shareholders as defined in the Scheme document ("**Scheme Document**").

2. As explained in Ms. Williams' Skeleton Argument, this Scheme is essentially a privatization scheme, which is a type of scheme of arrangement which is well recognized in this jurisdiction.

The Scheme

3. The essence of the Scheme is a proposal by the Offering Parties, who include the so-called 'Rollover Shareholders' who are not voting on the Scheme, to acquire the shares of the Scheme Shareholders for cancellation price of approximately 0.40%. The Court determined by order dated 17 April 2023 that the scheme was one which a reasonable shareholder might approve and directed that the meeting be convened for the 15 May 2023, which was yesterday.

4. The Scheme Document, or, strictly, the Explanatory Statement, included supporting letters from the Board of Directors of the Company, the Independent Board Committee and the Independent Financial Advisor, all saying that the proposal was one which appeared to be a reasonable one for Scheme Shareholders to approve.

5. In the event the Scheme was approved by a remarkably high percentage, not just of those Shareholders voting in person or in proxy, but also of the total number of shares[1]. Scheme Shareholders who voted totalled $2,136,242,482.00 and those who voted in favour where $2,013,255,482. Ninety-five percent (95%) of those voting approved the Scheme.

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[1] Some 63% of the total number of Scheme Shareholders who could have potentially voted in favour of the Scheme.

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Matters requiring consideration

6. In terms of the various matters that the Court has to be satisfied of in granting the sanction which the Petitioner now seeks, Ms Williams referred the Court to the recent decision of Doyle J, in *In the Matter of Bestway Global Inc.,* FSD 208 of 2021, Judgment dated 7 October 2021(unreported).

And in that case (at paragraph 10), Doyle J said this:

"I am satisfied as to the following:

1) *the proposed scheme is a scheme of arrangement within the meaning of section 86 of the Companies Act (Re SIIC Medical Science and Technology Group Limited 2003 CILR 355; Euro Bank Corporation (In Liquidation) 2003 CILR 205);*

2) *the scheme document provided all the material information reasonably required to enable the scheme shareholders to come to an informed view on the merits of the scheme (GCR O.102 r.21(4)(e); Practice Direction No. 2 of 2010 at 3.7; Re XL Capital Limited 2010 (1) CILR 52 Smellie CJ);*

3) *the Court meeting was properly held and the statutory majorities were achieved;*

4) *there is no reason to believe that the views of the overwhelming majority of those who voted in favour of the scheme did not fairly represent the views of the scheme shareholders as a whole, that they were not acting bona fide or that they were subject to coercion;*

5) *that the scheme of arrangement is fair in the sense that an intelligent and honest person acting in respect of his relevant interest might reasonably approve of it. Those voting are the best judges of their own commercial interests and reasonableness of the terms of the scheme of arrangement. Being fully informed an overwhelming majority voted in favour of the scheme at the Court meeting. In commercial matters members*

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and creditors are generally much better judges of their own interest than the courts; and

6) *there is no good reason for the court to exercise its residual discretion not to sanction the scheme. See the judgment of Snowden J as he then was in Barclays Bank Plc [2019] EWHC 129 (Ch) at paragraph 33 (delivered just 3 years after his insightful Jurisdiction and Recognition in Cross-Border Restructuring 'Who Dares Wins' lecture in the Cayman Islands and some 2 years before his recent appointment as a Lord Justice of Appeal in England and Wales). Snowden J's judgment was in respect of the English court's discretion to sanction business transfer schemes under section 111 of the Financial Services and Markets Act 2000. Snowden J comments to the effect that the court should give due recognition to the commercial judgment of others directly involved in the scheme and that the details of the scheme are not a matter for the court provided the scheme as a whole is found to be fair.*"

Disposition

7. Applying those principles to the present case, I find that the requirements for sanctioning the present scheme have been clearly met and the Petitioners, accordingly, granted the sanction that it seeks.

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THE HONOURABLE MR JUSTICE IAN RC KAWALEY
JUDGE OF THE GRAND COURT