

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



CR-2023-003812

Before ICC Judge Prentis
8 February 2024

IN THE MATTER OF NRLB LIMITED AND BROWN AND MASON GROUP LIMITED

AND IN THE MATTER OF THE COMPANY DIRECTORS DISQUALIFICATION ACT 1986

BETWEEN:

NICHOLAS TERRY BROWN

Claimant

and

THE COMPETITION AND MARKETS AUTHORITY

Defendant

ORDER

UPON THE CLAIM of the above-named Claimant by Claim Form issued on 13 July 2023 for leave pursuant to section 17 of the Company Directors Disqualification Act 1986 to act as a director of, and take part in the management of, Brown and Mason Group Limited (company number 01892133) (**'BMG'**) and NRLB Limited (company number 12348377) (**'NRLB'**)

AND UPON a disqualification undertaking having been given by the Claimant and accepted by the Defendant on 19 May 2023 for a period of 7 years, commencing on 28 July 2023 (**'the Disqualification Undertaking'**)

AND UPON Anita Morris (**'Ms Morris'**) having been appointed as a director of NRLB

AND UPON the Claimant having on 20 July 2023 resigned as a director of Safegate Trading Ltd, T&B Investments Limited, Alf Brown's (Transport) Limited, Site Contracting Services Limited and as a designated member of Brown and Mason Management Services LLP

AND UPON HEARING Mr C Buckley, Counsel for the Claimant, and Ms C Addy KC and Ms A Lintner, Counsel for the Defendant

AND UPON the Court handing down written judgment on the Claim on 8 February 2024 neutral citation number [2024] EWHC 206 (Ch)

IT IS ORDERED that:

1. Save as provided for in paragraph 2 below, the Claim is dismissed.
2. Until 23.59 on 28 July 2024, notwithstanding the Disqualification Undertaking the Claimant has leave to act as a director of, and take part in the management of, BMG and NRLB, subject to the following conditions:
 - 2.1. the Claimant shall not be or act as a director of any other company;
 - 2.2. the Claimant shall not use the title of "Managing Director" of BMG or NRLB;
 - 2.3. BMG and NRLB shall not act as directors of any company;
 - 2.4. NRLB shall not carry out any trading activities;
 - 2.5. whilst the Claimant may advise BMG in relation to their proposed content, the Claimant shall not approve any tender submission documents or any trade agreements on its behalf or otherwise authorise or cause BMG to submit or enter into the same without the prior written approval of at least two other directors of BMG of such tender submission document or trade agreement;

- 2.6. the Claimant shall not attend any meeting on behalf of BMG or NRLB with (1) any client or potential client to discuss, submit, approve or enter into any tender submission or trade agreement pre-contract, (2) any competitor of BMG or NRLB, or (3) any third party that provides financial support to BMG or NRLB, without another director of BMG or NRLB (or alternatively in the case of BMG, Dan Baker) being present. The attendees of BMG or NRLB at any such meeting shall circulate minutes of the meeting to the BMG or NRLB Board (as appropriate) within 72 hours of the meeting taking place;
- 2.7. the Claimant shall report any unplanned face-to-face meetings (including video conferencing or telephone calls) with (1) any client or potential client (being one in which there is an existing tender submission in which BMG or NRLB is interested or trade agreement pre-contract), (2) any competitor of BMG or NRLB, or (3) any third party that provides financial support to BMG or NRLB. Any such report is to be made to Mr Collinson within 24 hours of the meeting taking place;
- 2.8. no invoices shall be rendered and no payments shall be made on behalf of BMG under the direction of or pursuant to any instructions given by the Claimant;
- 2.9. subject to condition 2.10 below:
- (a) Adam Collinson (**‘Mr Collinson’**) shall remain a non-executive director of BMG;
 - (b) Ms Morris, Richard Brown (**‘Mr R Brown’**), Lee Brown (**‘Mr L Brown’**), John Payton (**‘Mr Payton’**) and Alex Hadden (**‘Mr Hadden’**) shall remain directors of BMG;
 - (c) whilst he remains employed by BMG, Charles Buckingham (**‘Mr Buckingham’**) shall remain a director of BMG;
 - (d) Ms Morris shall remain a director of NRLB;
 - (e) Mr Hadden shall remain the competition compliance officer for BMG;

2.10. with the permission of the Court or the written permission of the Defendant:

- (a) Mr Collinson may be replaced as a non-executive director of BMG;
- (b) Ms Morris, Mr R Brown, Mr L Brown, Mr Payton and Mr Hadden may be replaced as directors of BMG;
- (c) Ms Morris may be replaced as a director of NRLB;
- (d) Mr Hadden may be replaced as the competition compliance officer for BMG.

Any application for permission from the Court shall be made on notice to the Defendant;

2.11. Mr Collinson, or his replacement, shall:

- (a) supervise compliance with competition law by BMG and the Claimant;
- (b) meet with the Claimant no less than four times a year to consider and discuss the Claimant's compliance with competition law; and
- (c) report to the board of directors of BMG every quarter, and the Defendant on reasonable request with no less than 14 days' notice, on compliance with competition law by BMG and the Claimant;

2.12. the Claimant shall procure that face to face (or video, following any relevant government regulations and/or recommendations) competition compliance training is conducted annually for:

- (a) staff employed by BMG and any consultants engaged by BMG who are identified by Mr Collinson as being at a higher risk of non-compliance; and
- (b) all directors of BMG and NRLB;

2.13. at the discretion of, and under the supervision of, Mr Collinson or his replacement:

- (a) no less than twice a year, all email servers within the custody or control of BMG shall be searched for high risk terms relating to potential competition law breaches; and
- (b) no less than twice a year, samples of the electronic copies of the Claimant's text and call records shall be reviewed and all text exchanges identified as being with a competitor shall be reviewed;

and if Mr Collinson, or his replacement, has any concerns following their investigations, such concerns shall be reported to the CMA in writing;

- 2.14. BMG shall hold minuted board meetings at which its compliance with competition law and any concerns raised by Mr Collinson or his replacement are considered on a quarterly basis. In addition, the appointed competition compliance officer shall provide a report to every board meeting of BMG which shall (a) include details of any competition law compliance training undertaken within BMG since the last board meeting and (b) include details of any matters or reports that such officer has become aware of under the applicable competition compliance policy and/or whistleblowing policy;
- 2.15. BMG shall maintain a statement on its website underlining its commitment to competition law compliance and acknowledging its involvement in the CMA's investigation, together with a link to its competition law compliance policy;
- 2.16. within two days of receiving a sealed copy of this Order from the Court, BMG shall publish and maintain a copy of this Order, together with either a copy of or a link to the Disqualification Undertaking on the CMA's website, in a prominent place on its website;
- 2.17. BMG and NRLB shall include a note in their annual company accounts filed at Companies House (1) giving details of the Disqualification Undertaking and the reasons for the Disqualification Undertaking, (2) stating that Mr Brown has

permission to act as a director of BMG and NRLB only until 23.59 on 28 July 2024 and subject to conditions which are stated in this Order, and (3) specifying a web address at which this Order can be found.

PROVIDED THAT the permission hereby granted shall cease immediately and without further Order upon any of the aforementioned conditions not being complied with and any permission shall not without further Order be capable of reinstatement by the subsequent fulfilment of the condition.

SAVE THAT should the Claimant issue and serve an application either pursuant to condition 2.10 above or for permission to continue to act prior to or within 7 days of knowledge of the breach of any condition(s), the permission shall continue until the close of the first hearing of such application which shall be listed before an Insolvency and Companies Court Judge in the urgent applications list no later than 14 days after issuing, subject to further Order of the Court.

3. The Claimant shall pay the costs of the Claim to date, in the total sum of £130,000.00 (VAT included), which includes the costs of 19 September 2023 (the summary assessment of which was reserved pursuant to paragraph 3 of the Order of that date) and the costs payable pursuant to paragraph 4 of the Order of Deputy ICC Judge Shekerdemian KC dated 24 July 2023 (the summary assessment of which was reserved to ICC Judge Prentis to be addressed following the handing down of judgment on the Claim). Such costs shall be paid by the Claimant to the Defendant in the following instalments, save that if any instalment is not received in cleared funds by the due date, the whole of the costs shall become due and payable immediately:
 - (i) £30,000.00 by no later than 29 February 2024;
 - (ii) £20,000.00 by no later than 29 March 2024;
 - (iii) £20,000.00 by no later than 30 April 2024;
 - (iv) £20,000.00 by no later than 31 May 2024;
 - (v) £20,000.00 by no later than 28 June 2024; and
 - (vi) £20,000.00 by no later than 31 July 2024.

4. This Order shall be served by the Claimant on the Defendant.

Service of Order

The court has provided sealed copies of this Order to the serving party:

TLT LLP, 3 Hardman Square, Manchester M3 3EB Ref: CG17/116854/000002