

Statements of affairs: to disclose or not to disclose

The recent case of *Re. a Company* [2025] EWHV 244 (Ch) provides useful guidance on when the Court will allow insolvency office holders (in this case administrators) to withhold information from a statement of affairs.

It confirmed that the court will take into account commercial interests and circumstances withholding information that they are otherwise obliged to disclose, and will balance the office holder's duty of transparency with the practicalities of managing the process and maximising value for the benefit of creditors by protecting commercially sensitive information.

It provides a useful example of where limited disclosure of commercially sensitive information will be permitted if that information prejudices to the conduct of the process.

What was it about?

The company was a non-trading company (whose assets were largely of shares in, and debts due, from group companies). Shortly before administrators were appointed it disposed of shares in return for a reduction of debts it owed to other group companies and took a call option allowing it to reverse the disposal. The

administrators were considering whether to exercise the call (and reinstate the debts) and / or whether to challenge the transaction under the Insolvency Act 1986. Their decision turned on how to value and market the shares to potential purchasers.

The administrators were concerned that issuing a statement of affairs in the prescribed usual form would enable purchasers to calculate the original consideration paid for the shares (information not normally available on a private sale) and to align their offer to that consideration rather than their own valuation, thereby giving them an advantage that might prejudice the potential sale value and return to creditors.

The administrators applied for an order allowing them to exclude the amount owed to the company's creditors from its statement of affairs; that the application be heard in private (a public hearing would defeat the purpose); and a retrospective extension of time to file the statement of affairs and proposals.

What was decided?

The court allowed the administrators to exclude the sums owed to creditors from the statement of affairs on the basis that the threshold requirement that such disclosure "*would prejudice the conduct of the administration*" was met. The judge

considered that the commercial sensitivity and potential impact of disclosing the original share sale price, and prejudice to negotiations with potential purchasers, justified this.

It granted permission for the application to be heard in private. The original purchase price was considered confidential information that would not normally be available to purchasers on a private sale and a public hearing could be commercially detrimental to obtaining market value for the shares.

The Court accepted that the administrators were justified deferring filing the statement of affairs until the conclusion of the application and granted an extension of time.

For more information about any of the issues covered in this update, or if you need further advice, please contact one of our restructuring and insolvency solicitors today to find out how we can help you.



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