



## **QORTI CIVILI PRIM`AWLA**

**ONOR. IMHALLEF  
JOSEPH ZAMMIT MCKEON**

**Illum it-Tlieta 29 ta` Novembru 2016**

**Kawza Nru. 15  
Rik. Nru. 656/15 JZM**

**Dr Jonathan Abela Fiorentino,  
avukat (detentur tal-Karta tal-  
Identita` bin-numru 555482M)  
bhala mandatarju speċjali ta` Line  
Englund Bendixen, detentrici tal-  
Passaport Norvegiz bin-numru  
26851145**

***kontra***

**L-Avukat Dr Patrick Valentino  
LL.D u l-Prokuratur Legali Luisa  
Tufigno, li b`digriet tas-26 ta`  
Awwissu 2015 gew nominati bhala  
kuraturi deputati in  
rapprezentanza tas-socjeta` Ticket  
Limited (registrata bin-numru ta`  
registrazzjoni C-42648)**

## Il-Qorti :

### I. Preliminari

Rat ir-rikors prezentat fis-6 ta' Lulju 2015 li jaqra hekk :-

*Illi s-socjeta` intimata Ticket Limited hija socjeta` privata limitata stabbilita taht il-ligijiet ta` Malta u registrata mar-Registratur tal-Kumpanniji nhar id-dsatax (19) ta` Ottubru tas-sena elfejn u sebgha (2007) bin-numru ta` registrazzjoni "C 42648" u dan kif jirrizulta mic-Certifikat ta` Registrazzjoni tas-socjeta` intimata mahrug taht l-Att dwar il-Kumpanniji (Kap. 386 tal-Ligijiet ta` Malta) (kopja hawn annessa u mmarkata bhala "Dok A");*

*Illi s-socjeta` intimata Ticket Limited giet kostitwita bhala kumpannija privata limitata u dan kif inhu konfermat mill-istatut taghha (kopja tal-Memorandum u l-iStatut ta` Assocjazzjoni tas-socjeta` intimata hija hawn annessa u mmarkata bhala "Dok B");*

*Illi jigi precizat li permezz ta` rizoluzzjoni straordinarja bil-miktub, datata sittax (16) ta` Gunju tas-sena elfejn u hdax (2011), il-membri tas-socjeta` intimata ddecidew li l-isem tas-socjeta` jibidel minn `Capitalinka Limited` ghall-isem attwali taghha ossija `Ticket Limited` kif jidher car mic-certifikat ta` registrazzjoni mibdul mahrug mir-Registratur tal-Kumpanniji a tenur tal-artikolu 80 tal-Att dwar il-Kumpanniji (Kap. 386 tal-Ligijiet ta` Malta) (kopja hawn annessa u mmarkata bhala "Dok BB");*

*Illi skont il-Memorandum ta` Assocjazzjoni tas-socjeta` intimata, senjatament il-klawzola 3(1)(a), jirrizulta illi l-attivita` principali taghha tikkonsisti fis-segwenti:*

*"To sell a variety of event tickets online, including but not limited to sports events, concerts, sold out events, international special events and the like";*

*Illi l-kapital azzjonarju sottoskritt attwali tas-socjeta` intimata jammonta ghal ghaxart elef ewro (€10,000), liema kapital huwa maqsum f'ghaxart elef (10,000) ishma ordinarji ta` valur nominali ta` ewro (€1) kull*

sehem, u li huma sottoskritti in kwantu ghal disat elef disa` mija u disgha u disghin (9,999) ishma ordinarji mill-azzjonista magoritarja s-socjeta` Ticket Holding Limited (C42647) u in kwantu ghal sehem wiehed (1) mis-socjeta` Papilio Services Limited (C55990) u dan kif inhu rifless mill-estratt tal-involved parties tas-socjeta` intimata mehud minn fuq is-sit elettroniku tar-Registratur tal-Kumpanniji (kopja hawn annessa u mmarkata bhala "Dok C");

Illi r-rikorrenti Line Englund Bendixen giet impjegata mis-socjeta` intimata fl-ewwel (1) ta` Lulju tas-sena elfejn u tlettax (2013) bhala Manager / Operational Director fi hdan l-istess socjeta` u dan skont kuntratt ta` impjieg datat l-istess gurnata tal-ewwel (1) ta` Lulju tas-sena elfejn u tlettax (2013) (kopja hawn annessa u mmarkata bhala "Dok D"), b`dan illi ai termini tal-istess kuntratt l-impjieg taghha gie effettiv mill-hmistax (15) ta` Novembru tas-sena elfejn u tlettax (2013);

Illi permezz ta` ittra datata hmistax (15) ta` Lulju tas-sena elfejn u erbatax (2014) mibghuta mis-socjeta` intimata (kopja hawn annessa u mmarkata bhala "Dok E"), ir-rikorrenti Line Englund Bendixen, giet infurmata li l-kuntratt ta` impjieg taghha kien qed jigi sospiz b`effett mill-ewwel (1) ta` Awwissu tas-sena elfejn u erbatax (2014). Din l-ittra giet iffirmata minn Krzysztof Kowalow bhala "CEO/Owner" tas-socjeta` intimata, li huwa wkoll l-azzjonista magoritarju fis-socjeta` Ticket Holding Limited (C42647) li kif gja rilevat hija l-azzjonista magoritarja tas-socjeta` intimata u dan kif inhu rifless mill-estratt tal-involved parties tas-socjeta` Ticket Holding Limited (C42647) mehud minn fuq is-sit elettroniku tar-Registratur tal-Kumpanniji (kopja hawn annessa u mmarkata bhala "Dok F");

Illi fl-ittra imsemmija hemm indikat b`mod car is-segwenti:

*"The company has been experiencing a very difficult financial situation since January 2014. We have been forced to stop all business because of lack of incoming funds.*

*The company is running an online business, but because of the lack of funds the website is currently offline. Neither have we had a working payment gateway for the last few months. There is therefore no basis for further operations."*

Illi rinfaccata b`din is-sitwazzjoni u in vista tan-nuqqas ta` xoghol matul il-perjodu ta` sospensjoni tal-impjieg taghha, ir-rikorrenti Line Englund Bendixen tat ir-rizenja mill-impjieg taghha bhala Manager /

*Operational Director tas-socjeta` intimata u dan permezz ta` ittra ta` rizenja datata ghoxrin (20) ta` Ottubru tas-sena elfejn u erbatax (2014) (kopja hawn annessa u mmarkata bhala "Dok G");*

*Illi fl-istess ittra taghha tal-ghoxrin (20) ta` Ottubru tas-sena elfejn u erbatax (2014), ir-rikorrenti Line Englund Bendixen infurmat lis-socjeta` intimata dwar it-talba taghha ghal pagi u holiday leave mhux imhallsa mis-socjeta` intimata u li jammontaw ghas-somma totali ta` hdax-il elf u tlett mitt ewro (€11,300);*

*Illi ftit granet wara, ir-rikorrenti Line Englund Bendixen interpellat lis-socjeta` intimata permezz ta` ittra rregistrata datata erbgħa u ghoxrin (24) ta` Ottubru tas-sena elfejn u erbatax (2014) sabiex fi zmien gimghatejn thallasha s-somma msemija ta` hdax-il elf u tlett mitt ewro (€11,300) rapprezentanti pagi u holiday leave mhux mħallsa għall-perjodu bejn il-hmistax (15) ta` Ottubru tas-sena elfejn u tlettax (2013) u l-ewwel (1) ta` Settembru tas-sena elfejn u erbatax (2014) (kopja hawn annessa u mmarkata bhala "Dok H");*

*Illi in vista tal-fatt li hija baqghet ma semghet xejn wara l-ewwel ittra taghha, ir-rikorrenti Line Englund Bendixen regghet interpellat lis-socjeta` intimata għall-hlas tal-ammont imsemmi u dan permezz ta` ittra mibghuta mill-avukat taghha fin-Norveġja datata dsatax (19) ta` Marzu tas-sena elfejn u hmistax (2015), izda s-socjeta` intimata baqghet inadempjenti (kopja hawn annessa u mmarkata bhala "Dok I");*

*Illi jirrizulta li bejn it-tlieta u ghoxrin (23) ta` April tas-sena elfejn u tnax (2012) u t-tnejn u ghoxrin (22) ta` Awwissu tas-sena elfejn u erbatax (2014), Krzysztof Roman Kowalow kien ukoll direttur tas-socjeta` intimata. Is-socjeta` intimata pprezentat Formola K fir-Registru tal-Kumpanniji li permezz taghha nfurmat lir-Registratur tal-Kumpanniji li minhabba l-mewt tieghu, l-imsemmi Kowalow ma baqax direttur tas-socjeta` intimata u lanqas ma baqa` vestit bir-rapprezentanza legali u gudizzjarja taghha (kopja hawn annessa u mmarkata bhala "Dok J");*

*Illi bejn it-tletin (30) ta` Gunju tas-sena elfejn u erbatax (2014) u t-tnejn u ghoxrin (22) ta` Awwissu tas-sena elfejn u erbatax (2014), Kowalow kien l-uniku direttur tas-socjeta` intimata, u wara li anke l-company secretary Thomas Jacobsen irrizenja minn din il-kariga tieghu fil-wiehed u tletin (31) ta` Dicembru tas-sena elfejn u erbatax (2014) (kopja hawn annessa u mmarkata bhala "Dok K"), is-socjeta` intimata baqghet minghajr direttur u*

*wkoll minghajr ebda ufficjal u/jew rapprezentant legali u gudizzjarju (ara "Dok C" hawn anness). Ghal din ir-raguni r-rikors qed jigi prezentat kontra kuraturi deputati in rappresentanza tal-istess;*

*Illi b'hekk in-numru ta' diretturi tas-socjeta' intimata nizel ghal inqas mill-minimu preskritt bl-artikolu 137 tal-Kap. 386 tal-Ligijiet ta' Malta u ilu hekk nieqes ghal aktar minn sitt xhur ai termini tas-subparagrafu (ii) tal-paragrafu (b) tas-subartikolu (2) tal-artikolu 214 tal-Att Dwar Il-Kumpanniji (Kapitolu 386 tal-Ligijiet ta' Malta);*

*Illi apparti dan kollu, u kif gja indikat f'dan ir-rikors u addirittura ammess mis-socjeta' intimata stess, johrog car illi s-socjeta' intimata kienet waqghet f'sitwazzjoni irreparabbli fejn effettivamente ma tistax thallas id-djun taghha. Konsegwentement, ir-rikorrenti Line Englund Bendixen qieghdha titlob ix-xoljiment u l-istralc konsegwenzjali minn dina l-Onorabbli Qorti skont is-subparagrafu (ii) tal-paragrafu (a) tas-subartikolu (2) tal-artikolu 214 tal-Att Dwar Il-Kumpanniji (Kapitolu 386 tal-Ligijiet ta' Malta);*

*Ghaldaqstant, ghar-ragunijiet fuq moghtija, ir-rikorrenti Line Englund Bendixen titlob umilment u bir-rispett li, prevja kwalunkwe dikjarazzjoni ohra xierqa, necessarja u opportuna, din l-Onorabbli Qorti joghgobha :*

*1. Tiddikjara u tordna x-xoljiment u l-konsegwenzjali stralc tas-socjeta' intimata Ticket Limited skont is-subparagrafu (ii) tal-paragrafu (a) tas-subartikolu (2) tal-artikolu 214 u s-subartikolu (5) tal-artikolu 214 tal-Kap.386 tal-Ligijiet ta' Malta ;*

*2. Tordna x-xoljiment u l-konsegwenzjali stralc tas-socjeta' intimata Ticket Limited skont id-disposizzjonijiet tas-subparagrafu (ii) tal-paragrafu (b) tas-subartikolu (2) tal-artikolu 214 tal-Kap.386 tal-Ligijiet ta' Malta ;*

*3. Tordna l-istralc mill-Qorti tas-socjeta' intimata Ticket Limited skont id-disposizzjonijiet tas-Sub-Titolu I tat-Titolu II tat-Taqsima V tal-Att dwar il-Kumpanniji (Kap. 386 tal-Ligijiet ta' Malta);*

*4. Taghti kull provvediment li jidhrilha xieraq u opportun.*

Rat ir-risposta li pprezentaw il-kuraturi deputati fit-2 ta' Ottubru 2015 fejn iddikjaraw illi ma humiex edotti bil-fatti tal-kawza pero` rriservaw illi jipprezentaw risposta ulterjuri u jindikaw aktar persuni bhala xhieda, meta u jekk jirnexxielhom jottjenu aktar informazzjoni dwar il-kaz.

Rat il-lista tax-xhieda ndikati mill-kuraturi deputati.

Semghet ix-xhieda u rat il-provi kollha l-ohra li tressqu fil-kors tal-kawza.

Rat il-verbal tal-udjenza tad-9 ta' Frar 2016 fejn ir-rikorrent iddikjara li Ticket Limited ma tistax thallas id-djun taghha kemm abbazi tal-paragrafu (a) kif ukoll abbazi tal-paragrafu (b) tal-Art 214(5) tal-Kap 386. Fl-istess udjenza kien dikjarat maghluq il-gbir tal-provi.

Rat id-digriet li tat fl-istess udjenza fejn halliet il-kawza ghall-provvediment in difett ta' ostakolu.

Rat l-atti l-ohra tal-kawza.

Rat illi ma jirrizulta ebda ostakolu sabiex jinghata l-provvediment.

## II. Provi

### 1. Xhieda

**Stuart Craig** xehed li huwa kien l-awditur tal-kumpannija Ticket Limited u ghamel l-*audit* tas-sena li taghlaq 2012. Spjega li l-*accounts* tal-2013 ma sarux ghax it-taghrif ma kienx komplut. Fl-ahhar tas-sena 2012, il-kumpannija kellha biss is-*share capital* peress li kienu hargu *dividends* ghall-profitti kollha li kien hemm sa dak iz-zmien. Kien hemm kredituri ghal madwar €10,000 u *tax liabilities* ta' madwar €31,000. Fil-bank kien hemm depozitat ammont ta' €99,500, izda dan tqassam bhala *dividend* mentri l-*liabilities* baqghu ma thallsux. Qal illi talab lil Papilio Services Limited, li kienet tiehu hsieb il-kotba, sabiex jaghmel l-*audit* izda kien infurmat illi kien miet l-azzjonista principali u direttur, u ghalhekk ma kellhomx informazzjoni x'jghaddu. L-ghan ewlieni tan-negozju tal-kumpannija kien l-

akkwist *in bulk* ta` biljetti ghal partiti tal-futbol u bejgh relattiv. Kienet isservi bhala *ticketline*.

**Line Englund Bendixen** xehdet illi b`kuntratt ta` impieg tal-1 ta` Lulju 2013 bdiet tahdem ma` Ticket Limited bhala *manager 1 Operational Director*. Id-data effettiva tal-bidu tal-impjeg kienet il-15 ta` Novembru 2013. L-attivit` ewlenija ta` Ticket Limited kienet il-bejgh ta` biljetti *online* ghal avvenimenti varji. B`ittra ta` Ticket Limited tal-15 ta` Lulju 2014, il-firmatarju Krzysztof Kowalow, li kien is-sid u CEO ta` Ticket Limited, infurmaha illi l-impjeg taghha kien qed jigi sospiz b` effett mill-1 ta` Awissu 2014. Fl-ittra nghad illi “*the company has been experiencing a very difficult financial situation since January 2014*”, li l-kumpanija kienet waqfet in-negożju *online* u marret *offline* minhabba nuqqas ta` dhul ta` fondi. Kowalow miet fil-harifa tal-2014.

Kompliet tixhed illi rinfaccjata b`dawk ic-cirkostanzi hija rrizenjat mill-impjeg b`ittra tal-20 ta` Ottubru 2014. Imbaghad b`ittra ohra tal-24 ta` Ottubru 2014, talbet il-hlas tas-somma ta` €11,300, rapprezentati pagi mhux imhallsa, u *leave* mhux mehud fiz-zmien ta` bejn il-15 ta` Ottubru 2013 u l-1 ta` Settembru 2014.

Billi ma semghet xejn minghand Ticket Limited, inkarikat lill-avukat taghha sabiex jibghat ittra ohra lill-kumpanija datata 19 ta` Marzu 2015. Il-kumpanija baqghet inadempjenti. L-ammont ta` €11,300 dovut baqa` ma thallasx u baqghet ma rceviet l-ebda reazzjoni minghand Ticket Limited.

**Christopher Armstrong** – direttur ta` Papilio Services Limited – xehed illi l-kumpanija hija *service provider* ta` *book keeping* fost servizzi ohra. Kienet inkarikata minn Ticket Limited biex tipprovdiha b`servizzi ta` *book keeping* u *corporate services* ohra. Dawn is-servizzi kienu pprovduti sa nofs l-2014. Miet is-sid ta` Ticket Limited u l-kuntratt tagghom twaqqaf.

Kompla jixhed illi l-ahhar *financial statements* kienu pprezentati fl-2012 ; l-istess it-*tax returns*. L-ahhar VAT *returns* ipprezentati kienu dawk ghaz-zmien ta` bejn Novembru 2012 u Jannar 2013. Ma kellhomx aktar informazzjoni minghand il-kumpanija biex ikomplu jipprezentaw il-VAT *returns*.

Stqarr illi fl-ahhar tal-2012, Ticket Limited kellha *net assets* ta` €10,000, li kien is-*share capital*. Kellha *asset position* ta` €75,000. Kellha

*offset position* ta' €75,000 *fil-holding company*. *Fil-holding company* kien hemm *retained earnings* ta' ftit anqas minn €75,000 u *receivables* ta' €46,000. Kien hemm ukoll xi ftit *prepayments*. Flus kien hemm ftit : €15 flus ; *tax asset* ta' €21,000 ; u xi *payables* taht l-€4,000.

Qal illi l-*holding company* ma kenitx taghmel negozju. Kienet is-sid tas-shares ta' Ticket Limited li kienet taghmel in-negozju.

Stqarr illi Ticket Limited kellha *tax liability* ta' €31,000 u kien hemm *trade creditors* ta' €10,000. Ma kellhiex *returned earnings* fl-2012.

Fisser illi billi l-*actual trading earnings* saru minn Ticket Limited, kwalunkwe *dividends* li harget Ticket Limited marru favur il-*holding company*. Matul it-tliet snin precedenti l-2012, ma kienx hemm *actual dividend* imqassam mill-*holding company*.

Ikkonferma li l-kumpanija tieghu kienet thallset tas-servizzi prestati.

**Joanna Bartolo** – rappresentant tal-Bank of Valletta plc – xehdet illi Ticket Limited kellha tlett kontijiet mal-bank : kont *savings* fl-Ewro ; kont *savings* fid-Dollaru tal-Istati Uniti ; u kont *savings* fl-Isterlina. It-tliet kontijiet infethu fis-7 ta' Mejju 2012 u nghalqu fis-26 ta' Awissu 2014.

**Audrey Ghigo** - rappresentant tal-HSBC Bank Malta plc - xehdet illi qabel Ticket Limited kien jisimha Capita Linca Limited. Fl-isem Capita Linca Ltd kellha zewg kontijiet mal-bank. L-ewwel kont infetah fit-18 ta' Jannar 2008 u nghalaq fit-22 ta' Novembru 2010 ; u l-kont l-iehor infetah fis-27 ta' Settembru 2007 u nghalaq fit-18 ta' Mejju 2012.

**Av. Dr. Francesca Galea Cavalazzi** xehdet illi s-socjeta' CSA Travel SAS kienet xtrat u hallset ghal numru ta' biljetti tal-World Cup minghand Ticket Ltd. Pero' din ma kkonsenjatx il-biljetti kollha ghalkemm kienet irceviet il-hlas kollu ghall-biljetti ordnati. Saret kawza li kienet deciza favur CSA u kontra Ticket Limited. Mis-sentenza ma kienx hemm appell. Minkejja s-sentenza l-ammont dovut lil CSA baqa' ma thallasx u hekk ghadu sal-lum. Ma sarx mandati eżekuttivi kontra Ticket Limited.

## 2. Dokumenti

Kienu pprezentati bhala prova dawn id-dokumenti :-

- a) Certifikat ta` Registrazzjoni tas-socjeta` Ticket Limited bin-numru ta` registrazzjoni C 42648 a fol 7 ;
- b) Kopja tal-*memorandum* tas-socjeta` intimata a fol 8 et seq ;
- c) Kopja ta` l-*articles of association* tas-socjeta` intimata a fol 11 et seq ;
- d) Certifikat ta` Registrazzjoni li jirrifletti l-bdil fl-isem tal-kumpanija a fol 20 ;
- e) Estratt ta` l-*involved parties* tas-socjeta` intimata mehud minn fuq is-sit elettroniku tar-Registratur tal-Kumpaniji a fol 21 et seq ;
- f) Kuntratt ta` impjieg datat 1 ta` Lulju 2013 a fol 22 et seq ;
- g) Ittra datata 15 ta` Lulju 2014 a fol 25 ;
- h) Estratt ta` l-*involved parties* tas-socjeta` Ticket Holding Limited mehud minn fuq is-sit elettroniku tar-Registratur tal-Kumpaniji a fol 26 ;
- i) Ittra ta` rizenja datata 20 ta` Ottubru 2014 a fol 27 ;
- j) Ittra registrata datata 24 ta` Ottubru 2014 a fol 28 ;
- k) Ittra datata 19 ta` Marzu 2015 a fol 30 ;
- l) Formola K fejn ir-Registratur tal-kumpaniji gie infurmat li Kowalow ma baqax direttur minhabba l-mewt tieghu a fol 33 ;
- m) Formola K relatata mar-rizenja tal-*company secretary* a fol 34 ;
- n) Kopja tar-*report and financial statements for the year ending 31 December 2012* tal-kumpanija intimate Ticket Limited a fol 103 et seq u a fol 151 et seq ;
- o) Email skambjat bejn l-awditur tas-socjeta` intimata u Papilio Services Limited a fol 113 et seq u a fol 171 ;
- p) Kopja tar-*report and financial statements for the year ended December 2012* tal-kumpanija Ticket Holding Limited a fol 128 et seq ;

- q) Kopja ta' ittra datata 15 ta' April 2015 mibghuta lir-Registratur tal-kumpaniji a fol 172 ;
- r) Kopja ta' ittra mibghuta lil Dottor Jeanelle Cachia datata 13 ta' Awissu 205 a fol 173 ;
- s) Kopja ta' *statement of accounts* li s-socjeta intimata kellha mal-bank of Valletta plc a fol 188 et seq;
- t) Kopja ta' *statement of accounts* li s-socjeta' intimate kellha mal-HSBC Bank Malta plc a fol 344 et seq ;
- u) Kopja ta' sentenza moghtija fit-13 ta' Frar 2015 fl-ismijiet Av Galea Cavallazzi nomine vs Ticket Limited et immarkata bhala Dok FGC ;
- v) Kopja ta' sentenza moghtija fil-11 ta' Novembru 2014 bin-numru ta' referenza 848/2014 fl-ismijiet Jorge De Laura rapprezentant mill-mandatarju speċjali tiegħu l-Avukat William Cuschieri vs Ticket Limited immarkata bhala Dok JAF 3 ;
- w) Estratt imnizzel mis-sit elettroniku tas-servizzi gudizzjarji tal-Ministeru immarkat bhala Dok JAF4 ;
- x) Kopja tal-mandat ta' sekwestru bin-numru 1296/2014 ezebit bhala Dok JAF 5.

### III. Locus stanti

Qabel tqis il-mertu tal-istanza odjerna, il-Qorti trid taccerta ruhha li r-rikorrenti ghandha *locus standi* skont il-ligi.

Persuna li tkun trid titlob ix-xoljiment u l-istralc ta' kumpannija, trid toqghod ghal dak li jipprovdi l-**Art 218(1) tal-Kap 386** li jaqra hekk –

*Talba lill-qorti (aktar `il quddiem imsejha "rikors ghal stralc") ghal -*

*(a) stralc ta' kumpannija mill-qorti skont l-artikolu 214(1)(a) ;*

*(b) xoljiment u stralc ta' kumpannija mill-qorti skont l-artikolu 214(2)(a) ; jew*

*(c) xoljiment u stralc ta' kumpannija skont l-artikolu 214(2)(b), ghandha ssir b`rikors li jista' jsir jew mill-kumpannija wara decizjoni tal-*

*laqgha generali jew mill-bord tad-diretturi taghha jew minn xi detentur ta' obbligazzjoni, kreditur jew kredituri, jew minn xi kontributorju jew kontributorji :*

*Izda rikors skont il-paragrafi (b) jew (c) jista' wkoll isir minn xi azzjonist jew direttur tal-kumpannija.*

**Fil-kaz tal-lum, ir-rikorrenti qeghda titlob ix-xoljiment u l-istralc ta' Ticket Limited abbazi tal-Art 214(2)(a)(ii) u tal-Art 214(2)(b)(ii) tal-Kap 386.**

Billi r-rikorrenti tikkwalifika bhala *kreditrici* ta' Ticket Limited, ghandha *locus standi* biex tippromwovi l-azzjoni skont id-disposizzjonijiet citati fil-paragrafu ta' qabel.

#### **IV. L-Art 214(2)(a)(ii) tal-Kap 386**

Skont l-**Art 214(2)(a)(ii) tal-Kap 386**, *kumpannija tista' xxolji u tkun stralcjata mill-qorti ... jekk ... il-kumpannija ma tkunx tista' thallas id-djun taghha.*

Il-Qorti tirrileva illi meta tfassal il-mudell ghal-ligi taghna l-gdida dwar il-kumpanniji, il-qafas maghzul kien dak tal-Companies Act Ingliza 1985. Fil-ligi Ingliza, ix-xoljiment u l-istralc ta' kumpanniji kien trattat permezz ta' legislazzjoni *ad hoc* u cioe' l-Insolvency Act 1986. Meta fl-1995 saret il-ligi taghna l-gdida dwar il-kumpanniji li hadet post il-Commercial Partnerships Ordinance 1962, id-disposizzjonijiet li jolqtu x-xoljiment u l-istralc kienu ntegrati fl-Att XXV tal-1995, illum Kap 386.

Fil-ligi taghna, li *kumpannija ma tkunx tista' thallas id-djun taghha* ghandu **sinjifikat preciz u definit** mil-ligi stess. Infatti fl-Art 214(5) il-ligi tistabilixxi liema huma c-cirkostanzi fejn kumpannija titqies li ma tkunx tistax thallas id-djun taghha ghall-finijiet tal-Art 214(2)(a)(ii). Ghalhekk l-Art 214(2)(a)(ii) ma jistax jinqara minghajr ma ssir riferenza ghall-Art 214(5).

## V. L-Art 214(5) tal-Kap 386

**Tnejn** huma c-cirkostanzi definiti mil-ligi meta kumpannija ghandha titqies li ma tista` thallas id-djun taghha –

(a) *jekk id-dejn dovut mill-kumpannija jkun baqa` ma thallasx ghal kollox jew f`parti wara erbgha u ghoxrin gimgha mill-ezekuzzjoni ta` titolu ekekuttiv kontra l-kumpannija b`xi wiehed mill-atti ekekuttivi msemmin fl-artikolu 273 tal-Kodici ta` Organizzazzjoni u Procedura Civili ; jew*

(b) *jekk ikun ippruvat ghas-sodisfazzjon tal-qorti li l-kumpannija ma tkunx tista` thallas id-djun taghha, meta din tqis ukoll il-passiv kontingenti u prospettiv tal-kumpannija.*

**Kien dikjarat mir-rikorrenti illi l-azzjoni qeghda titmexxa kemm abbazi tal-paragrafu (a) kif ukoll abbazi tal-paragrafu (b).**

### a) L-Art 214(5)(a) tal-Kap 386

Fil-ligi Ingliza, l-insolvenza (jew li kumpannija ma tistax thallas id-djun taghha) hija trattata b`mod aktar wiesgha milli kif titqies fil-ligi taghna fejn l-istat ta` insolvenza ghandu tifsira aktar ristretta.

Dwar il-posizzjoni fil-ligi Ingliza, fit-Tmien Edizzjoni (2012) ta` l-ktieb **Boyle & Birds` Company Law** (pubblikat minn Jordans) pg 859 jinghad hekk –

*There are two principal, although not exclusive or exhaustive, tests of insolvency : a company is insolvent if it unable to pay its debts as they fall due (“cash flow insolvency”) ; it is also insolvent if its liabilities exceed its assets (“balance sheet insolvency”) ...*

Ghalkemm kif rajna fil-ligi taghna l-Art 214(5)(a) ighid xi haga diversa minn *inability to pay debts as they fall due* li nsibu fil-ligi Ingliza, din il-Qorti tiset xebh bejn dak previst fl-Art 214(5)(a) u *cash flow insolvency* fil-ligi Ingliza.

Fil-**Boyle & Birds` Company Law** (op. cit.) ikompli jinghad hekk –

*Failure to pay a debt which is due and not disputed amounts to evidence of cash flow insolvency. Thus a company which has a policy of late payment of bills could find itself the subject of a petition for a winding-up order or administration order. Such a petition will not be struck out at an early stage as a form of improper pressure and an abuse of the process of the court, because, as Staughton LJ explained in Taylor's Industrial Flooring (1990. BBC 44 at 51) creditors, not late payers, are more worthy of insolvency law's protection.*

*"Many people today seem to think that they are lawfully entitled to delay paying their debts when they fall due or beyond the agreed period of credit, if there is one ... This can cause great hardship to honest traders, particularly those engaged in small businesses recently started. Anything which the law can do to discourage such behaviour in my view should be done."*

Fil-ktieb **Insolvency Law – Corporate and Personal** ta` Andrew Keay u Peter Walton (pubblikat minn Pearson Longman – 2003) pg 17 jinghad hekk dwar cash flow insolvency kif mifhuma fil-kuntest tal-Insolvency Act 1986 –

*The court, in examining whether a company is suffering cash flow insolvency, will consider whether the company is actually paying its debtors. Courts must take into account what current revenue the company has as well as what the company can procure by realising assets within a relatively short time ... A company can rely upon money which might be obtained from the sale of assets or upon money which might be obtained on the strength of its assets ... It is possible that sometimes a debtor might be able to establish solvency by demonstrating that funds can be obtained through an unsecured loan. In considering whether a person or a company is insolvent, the debtor's whole financial position must be studied ... and a temporary lack of liquidity does not necessarily mean that the company is insolvent ...*

*At one time courts were rather strict on what they required to be established before they were willing to deem a person or a company insolvent, but in more recent times they have become more liberal as far as creditors are concerned and have held that a debtor is insolvent if a creditor is able to prove that he or she has not paid an undisputed debt after a demand has been made ... and this is the case even if there is other evidence which suggests that the value of the assets outweighs liabilities ...*

*Whether a company is cash flow insolvent is principally a question of fact and one which may be established in any number of ways, such as the existence of a large number of outstanding debts and unsatisfied judgments ... or there is lack of assets on which execution can be levied ...*

*It has been said that a debtor is not regarded as solvent just because if sufficient time were granted the debts could be paid off ...*

Lura ghal-ligi taghna, riferibbilment għall-Art 214(5)(a), hija guriprudenza ta' din il-Qorti illi sabiex tiskatta din id-disposizzjoni, irid jirrizulta **att eżekuttiv** skont l-Art 273 tal-Kap 12. Għalhekk mandat kawtelatorju mhux bizzejjed biex tiskatta d-disposizzjoni. Fil-kaz ta' att eżekuttiv, il-perijodu ta' erbgha u ghoxrin (24) gimgha ndikat fl-Art 214(5)(a) tal-Kap 386 jibda jghodd mill-**eżekuzzjoni** tal-att eżekuttiv.

Fil-kaz tal-lum, jirrizulta ppruvat illi ghalkemm il-kawza fl-ismijiet *Av. Francesca Galea Cavallazzi noe vs Ticket Limited* kienet deciza kontra Ticket Limited fit-13 ta' Frar 2015 (Dok FGC), u ghalkemm is-sentenza ma kenitx appellata, is-socjeta' attrici li favur taghha kienet deciza l-kawza ma pprezentatx mandati eżekuttivi kontra Ticket Limited (ara d-deposizzjoni ta' l-Av. Dr. Francesca Galea Cavallazzi).

Irrizulta wkoll illi fil-25 ta' Awissu 2014 hareg mandat ta' sekwestru kawtelatorju bin-nru. 1296/2014 wara talba ta' Jorge De Laura, rappreżentat mill-mandatarju speċjali tieghu l-Av. William Cuschieri kontra Ticket Limited (Dok JAF 5). Il-hrug tal-mandat ippreceda l-presentata tal-kawza bin-nru. 848/2014 fl-ismijiet *Jorge De Laura rappreżentat mill-mandatarju speċjali tieghu l-Avukat William Cuschieri vs Ticket Limited*. Ma jirrizultax jekk fl-istanza ta' Jorge De Laura kienx hemm att eżekuttiv, jew jekk kien hemm kienx hemm xi segwitu kif irid l-Art 214(5)(a)

Hija l-fehma ta' din il-Qorti li fil-kaz tal-lum **ma kienux ippruvati r-rekwiziti tal-Art 214(5)(a) tal-Kap 386.**

**b) L-Art 214(5)(b) tal-Kap 386**

**Fit-test bl-Ingliż l-Art 214(5)(b) tal-Kap 386 jaqra hekk :-**

*For the purposes of subarticle (2)(a)(ii), a company shall be deemed to be unable to pay its debts ... if it is proved to the satisfaction of the court that the company is unable to pay its debts, account being taken also of contingent and prospective liabilities of the company.*

Fl-Insolvency Act Ingliza 1986, insibu disposizzjoni li TIXBAH dik tal-ligi taghna, ghalkemm mhijiex l-istess.

Il-Qorti qeghda tirreferi ghall-Art 123(2) tal-Insolvency Act 1986 li jaqra hekk –

*A company is also deemed unable to pay its debts if it is proved to the satisfaction of the court that the value of the company's assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities.*

Il-Qorti diga` rrilevat illi d-disposizzjoni fil-ligi taghna TIXBAH PERO` MHIJIEX IDENTIKA ghal dik tal-ligi Ingliza.

Id-divergenza bejn iz-zewg ligijiet hija li filwaqt li fil-kaz taghna l-mizura hija semplici : u cioe` *the company is unable to pay its debts account being taken also of contingent and prospective liabilities of the company*, fil-kaz tal-ligi Ingliza, il-kriterju huwa divers ghaliex il-Qorti tkun trid tqis illi *the value of the company's assets is less than the amount of its liabilities ...* billi tiehu kont tal- ... *contingent and prospective liabilities.*

Ghal din il-Qorti, id-differenza mhijiex ta` *drafting* izda ta` sostanza.

Fl-istess waqt, il-Qorti hija tal-fehma li xorta wahda ghandha tfittex sintesi bejn id-disposizzjoni tal-ligi taghna u dik tal-ligi Ingliza. U s-sintesi hija kostitwita mill-koncett ta` *contingent and prospective liabilities.*

Il-Qorti sejra tirreferi ghal dak li tghid id-dottrina fl-Ingilterra dwar il-materja li tikkostitwixxi l-mertu tal-istanza tal-lum.

Bid-debiti riservi, u tenut kont tad-disparita` fid-disposizzjonijiet ta` bejn il-ligi Ingliza u dik taghna, il-Qorti sejra tirreferi ghal dak li tghid id-dottrina Ingliza dwar dak li huwa maghruf bhala balance sheet insolvency meta abbinat mal-Art 123(2) tal-Insolvency Act 1986 tar-Renju Unit.

Fil-Pag 19 tal-ktieb **Insolvency Law – Corporate and Personal** (2003 – Pearson Longman) Andrew R Keay u Peter Walton ighidu dwar *balance sheet insolvency* kif mifhuma fil-kuntest tal-Insolvency Act 1986 –

*In determining whether the assets are outweighed by the liabilities a court is able to take into account contingent and prospective liabilities, but not contingent and prospective assets [Byblos Bank SAL v. Al-Khudhairy (1986) 2 BCC99, 549 (CA)] It has been said that “liabilities” is a broadened term compared with “debts” [Re A debtor (No 17 of 1966) (1967) Ch 590 ; (1967) 1 All ER 668]. “Liabilities” is defined for the purposes of winding up in rule 13.12 (4) to mean “a liability to pay money or money’s worth, including any liability under an enactment, any liability for breach of trust, any liability in contract, tort or bailment and any liability arising out of an obligation to make restitution”. Then rule 13.12 (3) states that it is immaterial whether the liability is present or future, whether it is certain or contingent, or whether its amount is fixed or liquidated, or is capable of being ascertained by fixed rules or as a matter of opinion.*

*Clearly with this test it is only possible to take into account the assets owned by the company including the uncalled capital of the company [Re National Livestock Insurance Co (1858) 26 Beav 153 ; 53 ER 855 ...*

Fil-Pag 114 tar-Raba` Edizzjoni (2011) ta` **Principles of Corporate Insolvency Law** (Sweet & Maxwell) Roy Goode ighid hekk –

*The idea underlying this test ... is that it is not sufficient for the company to be able to meet its current obligations if its total liabilities can ultimately be met only by the realisation of its assets and these are insufficient for the purpose ...*

Fil-Pag 130 ikompli hekk –

*The mere excess of liabilities over assets is not in itself determinative. What has to be shown is that by reason of the deficiency of its assets the company has reached the point of no return.*

Fil-Pag 134 sa 136, l-awtur jittratta n-nozzjoni ta` **contingent liability** u jghid hekk –

*To give the phrase “contingent liability” any meaning we must restrict it to a liability or other loss which arises out of an existing legal obligation or state of affairs but which is dependent on the happening of an event which*

may or may not occur. Many of the cases have stressed the need for the liability to arise out of an existing obligation.

... in considering whether there is a contingent liability the court has regard to the existing commercial situation, not merely an existing legal obligation. In this regard, assistance can be derived from Financial Reporting Standard 12 which defines a contingent liability in the following terms :

(a) “A possible obligation that arises from past events and whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the entity’s control ; or

(b) a present obligation that arises from past events but is not recognised because :

(i) it is not probable that a transfer of economic benefits will be required to settle the obligation ; or

(ii) the amount of the obligation cannot be measured with sufficient reliability.”

... the term “contingent liabilities” is ultimately not a term of art and its precise meaning will depend on its context. The court is thus entitled to have regard to commercial realities ...

Fil-Pag 136 u 137, l-awtur jittratta n-nozzjoni ta’ **prospective liability** u jghid hekk –

... The phrase “prospective liability” is neither a legal nor an accounting term of art. It has been judicially defined as : “ ... a debt which will certainly become due in the future, either on some date which has already been determined or some date determinable by reference to future events.”

... it has been described ... as unmatured liability which will inevitably ripen into a debt with the passage of time. Such a definition encompasses all forms of debitum in praesenti, solvendum in futuro including an indisputable claim for unliquidated damages which remains only to be quantified and will result in a debt far more than a nominal amount. “Prospective liability” thus embraces both future debts, the sense of liquidated sums due, and unliquidated claims.

Fil-kaz tal-lum, jirrizulta ppruvat illi Ticket Limited llum m`ghandhiex flus depozitati fil-banek kummercjali.

Abbazi tax-xiehda ta' Stuart Craig u ta' Christopher Armstrong, jirrizulta li l-informazzjoni li kellhom dwar Ticket Limited kienet twassal ghal-ahhar tal-2012, kwazi erba' snin ilu mil-lum.

Jirrizulta li l-ahhar dokumenti pprezentati kienu *l-financial statements filed for year ending 2012 ; tax return filed for year ending 2012 (YA 2013) ; last VAT return filed for period covering Nov '12 – Jan '13 ; u book keeping – postings made on SAGE till August 2013 – Documents prepared but not posted on SAGE from Sep 2013 till Dec 2013 – no files have been received for 2014.*" (Vide korrispondenza a fol 113 et seq).

Ma jirrizultawx dokumenti finanzjarji u fiskali sussegwenti ghar-ragunijiet indikati mill-istess xhieda.

Abbazi tax-xiehda ta' dawn il-persuni, huwa evidenti illi llum is-socjeta' hija sprovvista minn fondi ghaliex il-likwidita' li kien hemm thallset lill-azzjonisti permezz ta' *dividends*.

**Din il-Qorti tqis inaccettabbli li ladarba kien hemm fondi bizzzejjed, tittiehed decizjoni li jithallsu dividendi lill-azzjonisti qabel ikun hemm prova debitament iccertifikata li thallsu id-djun ta' terzi jew parti minnhom. Agir ta' din ix-xorta m'ghandux ikun permess bil-ligijiet nostrani li jirregolaw is-socjetajiet kummercjali jekk tassew nemmnu li pajjizna ghandu jibqa' centru ta' eccellenza fil-qasam tas-servizzi finanzjarji.**

Jirrizulta ppruvat illi wara l-2013, bdew jigu riskontrati problemi fil-likwidita'. Tant hu hekk illi b'ittra tal-15 ta' Lulju 2014 (fol 25) ir-rikorrenti kienet infurmata minn Krzysztof Kowalow illi :-

*"The company has been experiencing a very difficult financial situation since January 2014. We have been forced to stop all business because of lack of incoming funds. The company is running an online business, but because of the lack of funds the website is currently offline. Neither have we had a working payment gateway for the last few months. There is therefore no basis for further operations."*

Mhux biss izda kienet avzatha illi :-

*“Under these circumstances are we forced to pause your contract (permittere deg) 100% from your position with Ticket Limited affectively from 1<sup>st</sup> of August 2014. We will keep you inform of any changes regarding your paused contract and the possibility for reinstatement.”*

Il-Qorti hadet konjizzjoni ta` krediti ohra kontra Ticket Limited.

**Huwa ppruvat sal-grad rikjest mil-ligi li Ticket Limited ghandha taghti ammonti sostanzjali ta` flus lil diversi persuni, fosthom l-awtoritajiet fiskali Maltin.**

**Jekk tqis l-ammonti li kellha taghti s-socjeta` intimata sal-2012, mal-passiv attwali riskontrat, jirrizulta li s-socjeta` intimata ma ghandhiex bizzzejjed fondi biex taghmel tajjeb ghad-djun.**

Il-Qorti taghmel referenza wkoll ghall-fatt li Ticket Limited mhijiex topera wara l-mewt tal-*beneficial owner* Krzysztof Roman Kowalow u dana fit-22 ta` Awissu 2014 (ara fol 33).

Skont id-deposizzjoni ta` Christopher Armstrong, mal-mewt ta` Kowalow, ma baqghux jircievu informazzjoni biex ikunu jistghu jiehdu hsieb il-kotba tas-socjeta` intimata.

Jirrizulta li rrizenja wkoll mill-kariga tieghu l-*company secretary* Thomas Jacobsen b`effett mill-31 ta` Dicembru 2014 (fol 34).

L-azzjonisti ta` Ticket Limited huma Ticket Holding Limited (9,999 *ordinary shares*) u QUBE Holdings Limited (*one ordinary share*).

Hadd mill-azzjonisti ma ghamel xejn biex jaghmel tajjeb ghad-djun. Ma jirrizultax li hemm xi dhul diehel u ghalhekk is-sitwazzjoni mhijiex ser tigi mtejba.

**Hija l-fehma ta` din il-Qorti li fil-kaz tal-lum kienu ppruvati r-rekwiziti tal-Art 214(5)(b) tal-Kap 386.**

## VI. Id-diskrezzjoni tal-Qorti

**Accertat illi Ticket Limited mhijiex f'qaghda li thallas id-djun taghha, il-Qorti sejra tara jekk ghandhiex tezercita d-diskrezzjoni taghha li tordna x-xoljiment u l-istralc taghha.**

Hija l-fehma konsiderata tal-Qorti illi ma hu qed isir xejn mill-azzjonisti ghall-fini tar-risanament tas-socjeta`. Is-socjeta` waqfet ghal kollox mill-esercizzju tan-negozju li ghalih kienet kostitwita. Il-qaghda finanzjarja taghha hija prekarja ghall-ahhar ; sahansitra ghalqet in-negozju taghha, u tat is-sensja lir-rikorrenti, li kienet impjegata taghha. Il-*beneficial owner* tas-socjeta` miet, u ma jidhirx li xi hadd ha xi azzjoni ta` xi xorta. Inoltre s-socjeta` hija sprovvista minn ufficjali. Addirittura jidher li spiccat minghajr *registered address* (ara fol 172). Kif diga` kellha okkazjoni tghid fi provvedimenti precedenti taghha, din il-Qorti terga` ssostni li kumpannija li ma taghmilx negozju hija entita` bla ruh. Kumpannija li ma tiggenerax attivita` ekonomika ma jistax ikollha dhul, u minghajr dhul, ma tista` qatt thallas id-dejn taghha. Per konsegwenza, din il-Qorti sejra wkoll tezercita d-diskrezzjoni taghha u sejra tordna x-xoljiment u l-istralc ta` Ticket Limited abbazi tal-Art 214(2)(a)(ii), u tal-Art 214(5)(b) tal-Kap 386.

## VII. L-Art 214(2)(b)(ii)

Ghall-fini ta` apprezzament shih tal-lanjanzi tar-rikorrenti, il-Qorti sejra tqis l-istanza tar-rikorrenti abbazi tal-Art 214(2)(b)(ii).

Qorti **ghandha** xxolji kumpannija jekk *in-numru ta` diretturi jkun nizzel ghal inqas mill-minimu preskritt bl-artikolu 137 u jibqa` hekk nieqes ghal aktar minn sitt xhur.*

### L-Art 137 tal-Kap 386 ighid :-

...

(2) *Kull kumpannija privata ghandu jkollha ghall-anqas direttur wiehed, u meta kumpannija privata jkollha direttur wiehed, ir-riferenzi kollha f'dan l-Att ghal zewg diretturi jew izjed ghandhom jiftiehm b'hala riferenzi ghal dak id-direttur wiehed.*

...

(7) Jekk in-numru ta' diretturi ta' kumpannija jinzel inqas minn tnejn kull membru tal-kumpannija jista' f'kull zmien wara li jghaddu tletin jum minn meta jigri dan, b'rikors jitlob lill-qorti biex tahtar direttur jew diretturi tal-kumpannija skont il-memorandum taghha u dan bla hsara ghall-jedd tad-direttur li jkun baqa' li jimla kull vakanza li hekk tinholoq skont id-disposizzjonijiet tal-artikolu 140(6) matul it-tletin jum specifiki fih jew f'kull zmien iehor wara sakemm id-direttur ma jkunx mahtur mill-qorti.

...  
(9) Id-disposizzjonijiet tas-subartikolu (7) ghandhom ukoll ikunu bla hsara ghad-disposizzjonijiet tal-artikolu 140(1) sa (5) u tal-artikolu 214(2)(b)(ii) u ghall-jedd tal-kumpannija li timla dik il- vakanza f'laqgħa generali.

Trid issir riferenza wkoll għall-**Art 214(3)** li specifika ment tirreferi għad-disposizzjoni mertu tal-ilment tar-rikorrenti.

Jingħad hekk :-

*Fil-kazijiet ta' xoljiment li jaqgħu taht is-subartikolu (2)(b), il-qorti tista', fid-diskrezzjoni tagħha, tiddeciedi jekk il-kumpannija għandhiex tkun stralcjata mill-qorti jew volontarjament :*

*Izda għall-finijiet tas-subparagrafi (ii) u (iv) tal-imsemmi paragrafu (c), il-qorti fid-diskrezzjoni tagħha u jekk tintwera raguni xierqa tista', u għall-finijiet tas-subparagrafu (i) tal-istess paragrafu l-qorti għandha, qabel ma tordna x-xoljiment talkumpannija, tagħti perjodu ta' zmien ta' mhux iktar minn tletin jum, li fih il-kumpannija tkun tista' tirrimedja n-nuqqas u malli tingħata prova li dak in-nuqqas ikun gie rimedjat, il-qorti ma għandhiex tordna x-xoljiment tal-kumpannija.*

Dwar dan l-**Art 214(2)(b)(ii)**, **Andrew Muscat** fil-pagna 401 tal-**Principles of Maltese Company Law** (MUP – 2007) jghid:

*“It should also be noted that the right of a member to file an application in court and the right of the continuing director to fill the casual vacancy do not neutralize the potential applicability of the rule that a company should be dissolved by the court if the number of directors is reduced below two in the case of a public company or below one in the case of a private company and remains so reduced for a period exceeding six months. If the number of directors reverts to the minimum level required (that is, two in the case of a public company and one in the case of a private company) within six months, then the possible dissolution of the company will of course be averted. Where a request is filed before the court asking for the dissolution of the company on*

*the ground that the number of members has fallen below the statutory minimum, the court, may, at its discretion and upon good cause being shown, allow a period of time not exceeding thirty days within which the company may remedy the default and upon proof being submitted to it that any such default has been remedied, the court will not order the company's dissolution."*

Imbaghad fil-pag. 932 ighid :-

*"... For a company to be dissolved on this ground the number of directors must have been so reduced for more than six months. Even then the court has a discretion, upon good cause being shown, to allow a period of time not exceeding thirty days within which the company may remedy the default."*

Minn ezami tal-Form K datata 10 ta' Novembru 2014 (fol 33) jirrizulta li Kowalow waqaf milli jkun direttur fit-22 ta' Awissu 2014.

Mir-report and financial statements for the year ended 31 December 2012 irrizulta illi Kowalow kien appuntat direttur fit-23 ta' April 2012 mentri Sara Gatt giet appuntata fl-1 ta' Frar 2013.

Jirrizulta li Kowalow ma baqax direttur u li b'hekk il-kumpanija tilfet direttur u anke l-persuna li fiha kienet vestita r-rapprezentanza guridika u legali tas-socjeta' intimata.

Ma jirrizultax x'sehh minn Sara Gatt.

Il-memorandum u l-articles ipprezentat lir-Registratur fit-13 ta' Frar 2013 jsemmi bhala diretturi lil Kowalow u lil Gatt (fol 10).

Izda mbaghad minn imkien ma tressqet xi prova li Sara Gatt ma baqghetx tokkupa l-kariga ta' direttur fis-socjeta' intimata.

Lanqas ma tressqet prova li l-pozizzjoni ta' Kowalow bhala direttur ma gietx mehuda u mimlija minn terza persuna ohra fi zmien li ma jissuperax is-sitt xhur.

Ir-rikorrenti qaghdet fuq il-Form K ipprezentata a fol 33 u l-Form K ipprezentata a fol 34 (li tirrigwarda r-rizenja tal-company secretary) u ma

ressaq l-ebda prova ohra fir-rigward ta` dan is-subartikolu b(ii) tal-artikolu 214(2) tal-Kap 386 tal-Ligijiet ta` Malta.

**Il-Qorti hija tal-fehma illi l-vot tal-Art 214(2)(b)(ii) tal-Kap 386 tal-Ligijiet ta` Malta ma giex sodisfatt.**

### **Provvediment**

**Ghar-ragunijiet kollha premessi, il-Qorti qeghda tipprovdi dwar it-talbiet tar-rikorrenti billi :-**

**Riferibbilment ghall-ewwel talba, tiddikjara li l-kumpannija Ticket Limited (C42648) mhijiex fqaghda li thallas id-djun taghha skont l-Art 214(2)(a)(ii) u l-Art 214(5)(b) tal-Kap 386 tal-Ligijiet ta` Malta.**

**Riferibbilment ghall-ewwel u ghat-tielet talbiet, tordna x-xoljiment u l-istralc tal-kumpannija Ticket Limited (C42648) b`effett mis-6 ta` Lulju 2015, skont l-Art 223(1) tal-Kap 386 tal-Ligijiet ta` Malta.**

**Tichad it-tieni talba.**

**Tahtar lir-Ricevitur Ufficjali bhala stralcjarju tal-kumpannija Ticket Limited (C42648) bis-setghat u bid-dmirijiet kollha stabbiliti fil-Kap 386 tal-Ligijiet ta` Malta.**

**Tordna lill-istralcjarju sabiex jipprezenta rapport sa zmien xahrejn mil-lum.**

**Tordna lir-rikorrenti sabiex thallas l-ispejjes kollha tal-procediment sal-lum.**

**Bl-applikazzjoni tal-Art 236(2) tal-Kap 386, tordna li l-ispejjez kollha tal-istralc, inkluzi d-drittijiet u l-ispejjez tal-istralcjarju, ghandhom jithallsu mis-socjeta` Ticket Limited (C42648).**

**Thalli l-istralc għall-udjenja ta nhar it-Tnejn 27 ta` Frar 2017  
fid-9.00 a.m.**

**Onor. Joseph Zammit McKeon  
Imhallef**

**Amanda Cassar  
Deputat Registratur**