



**QORTI CIVILI  
(SEZZJONI TAL-KUMMERC)**

**ONOR. IMHALLEF  
JOSEPH ZAMMIT McKEON**

**Illum il-Hamis 9 ta` Mejju 2019**

**Kawza Nru. 1  
Rik. Nru. 11/2019 JZM**

**Rikors ta`**

- 1. DQR Limited (C84784),**
- 2. DQR-COMPLY Limited (C86368),**
- 3. DQR-MARKETS Limited (C86369),**
- 4. DQR-MEDIA Limited (C86367),**
- 5. DQR-Services Limited (C86366);**
- 6. DQR-X Limited (C84839)**

**Il-Qorti :**

**I. Preliminari**

Rat ir-rikors prezentat fit-**28 ta` Marzu 2019** li jaqra hekk :-

*Illi dan huwa rikors a tenur tal-Art. 329B tal-Kap. 386 tal-Ligijiet ta` Malta ;*

*Illi r-Rikorrenti huma kumpaniji kummercjali b`responsabilita` limitata li kienu gew ikkostitwiti biex joperaw fis-settur tal-crypto currencies : kopja legali tal-Memorandum & Articles of Association tar-Rikorrenti qed jigu annessi u markati bhala Dok. "A1" sa ` "A6" ;*

*Illi r-Rikorrenti huma kollha konnessi permezz tas-sidien beneficjarji taghhom fis-sens illi DQR-Comply Limited, DQR Markets Limited, DQR Media Limited u DQR Services Limited huma lkoll sussidjarji tal-kumpanija DQR Group Limited (C86363) filwaqt illi il-kumpanija DQR X Limited hija sussidjarja ta` DQR Limited (C 84784), attwalment u ultimament dawn il-kumpaniji kollha huma komuni permezz tas-sid beneficcjarju taghhom u cioe Kristian Haendel;*

*Illi sabiex ir-Rikorrenti jkunu f`qaghda li jibdew f`dan in-negozju u jvaraw l-operazzjonijiet taghhom sa mit-twaqqif taghhom, huma kienu qeghdin jigu sostnuti b`avvanzi ta` flus b`titolu ta` self minghand l-azzjonisti taghhom ;*

*Illi gara li lejn l-ahhar tas-sena 2018, minhabba problemi finanzjarji ta` wiehed mill-azzjonisti Marco Alexander Krohl, dawn l-avvanzi ta` flus minn naha tieghu waqfu hesrem ffit gimghat biss qabel ir-Rikorrenti kienu ser ivaraw l-operazzjonijiet taghhom ;*

*Illi l-azzjonist l-iehor Kristian Haendel imbaghad gie fil-qaghda li ma setax ikompli jsostni ir-Rikorrenti wahdu u ghalhekk l-istess Rikorrenti gew fi stat li ma setghux ikomplu bil-pjan li jvaraw in-negozju taghhom u jhallsu l-kredituri ;*

*Illi sal-lum ir-Rikorrenti rispettivament ghandhom numru ta` kredituri kif jirrizulta ahjar mill-annessi listi ta` kredituri ;*

*Illi sal-lum, ir-Rikorrenti rispettivament mhumie x f`pozizzjoni li jhallsu d-djun taghhom u ma` dan ir-rikors u markati "B1" sa "B6"*

qed jigu annessi Management Accounts ghal kull kumpanija rikorrenti li turi l-qagħda finanzjarja inkluz l-attiv u l-passiv sat-18 ta` Marzu 2019 kif ukoll lista ta` kredituri bl-indirizz u l-ammont ta` kreditu rispettiv li għadu dovut lilhom sa llum ;

Illi fil-prezent għalkemm ir-Rikorrenti ma humiex f`qagħda li jhallsu l-kredituri tagħhom izda kif ser jigi sottomess hawn taht, thejja pjan ta` ristrutturar kif jirrizulta mill-anness rapport u markat Dok "C1" u intestat - DQR-Group Ltd – Recovery proposal : DQR-OTC to Recover the Group - sabiex ikunu f`pozizzjoni jhallsu l-kredituri kollha tagħhom u għalhekk qieghed isir dan ir-rikors sabiex kull wahda mill-kumpaniji Rikorrenti rispettivament jitqieghdu taht procedura biex jirkupraw taht il-provvedimenti ta` l-artikolu 329B ta` Att dwar il-Kumpaniji, Kapitolu 386 tal-Ligijiet ta` Malta (l-**"Att"**) ;

Illi għal dan il-ghan ittiehdet rezoluzzjoni straordinarja li kopja vera qegħda tigi hawn anness u ezibita skont kif jipprovdi l-artikolu 329B(1)(b) ta` l-Att, markati rispettivament doki "D1" sa` "D 6" ;

Illi wahda mill-kumpaniji formanti parti mill-grupp ta` kumpaniji tar-Rikorrenti, DQR-OTC Limited (C 86371), hawn `il quddiem imsejha il-**"Kumpanija"**, irnexxhielha tikseb sostenn finanzjarju sabiex il-pjan ta` negozju ikun jista` jitkompla u jigi varat ;

Illi dan il-kontribut kapitali gie kristallizzat fi ftehim (hawn anness in kopja u markat Dokument "E1" u min hawn `il quddiem imsejjah il-**"Ftehim"**) u fil-fatt il-Kumpanija gja rceviet l-ewwel avvanz ta` flus fis-somma ta` sebgha u disghin elf ewro (€97,000) skont il-Ftehim ;

Illi mill-qligh anticipat minn dan in-negozju kif prospettat fil-pjan hawn anness u markat Dokument " C1" huwa mahsub biex jithallsu l-kredituri kollha indikati tar-Rikorrenti u wara li jithallsu l-kredituri tagħhom, tittiehed decizjoni kummercjali dwar il-kontinwazzjoni tagħhom ;

*GHALDAQSTANT ir-Rikorrenti umilment jitolbu illi prevja d-dikjarazzjonijiet mehtiega u moghtija l-provvedimenti opportuni din il-Qorti joghgobha :*

*1. Tqiegħed lil kull wahda mill-kumpanniji Rikorrenti taħt procedura ta` rkupru skond il-provvedimenti ta` l-Artikolu 329B ta` l-Att.*

*2. Taħtar kontrollur speċjali rispettivament għal kull wahda mill-kumpanniji Rikorrenti biex jimmanigga u jamministra n-negozju ta` kull kumpannija Rikorrenti u rispettivament u dan għal zmien speċifikat minn din il-Qorti skont kif hu provdut taħt l-artikolu 329B ta` l-Att.*

*3. Tipprefiggi termini li fihom il-kontrollur speċjali għandu, nominat għal kull kumpannija rikorrenti, jespleta kwalunkwe inkarigu li tagħti din il-Qorti taħt il-provvedimenti ta` l-Artikolu 329B ta` l-Att.*

*4. Skont l-Artikolu 329B(5)(a)(ii), tistabbilixxi r-remunerazzjoni ta` kull kontrollur speċjali hekk nominat ; u*

*5. Skont l-Artikolu 329B(5)(a)(iii) tistabbilixxi z-zmien li fih kull wahda mill-kumpanniji rikorrenti għandha tiddepozita somma ta` flus jew toffri garanzija xierqa jew arrangament iehor addattat li, fil-fehma ta` din il-Qorti, ikun bizzejjed biex ikopri r-remunerazzjoni u l-ispejjez tal-kontrollur speċjali konnessi mal-hatra tiegħu.*

*u dan taħt dawn il-provvedimenti kollha l-oħra li din l-istess Qorti joghgobha timponi fic-cirkostanzi tal-kaz skont il-ligi.*

Rat id-dokumenti li kienu pprezentati mar-rikors promotur.

Rat illi r-rikors kien appuntat għas-smigh għall-udjenza tal-**5 ta` April 2019 fin-12.30 p.m.**

Semghet ix-xiehda ta` Kristian Haehndel u ta` Ben Carlotti fl-udjenza tal-5 ta` April 2019.

Rat il-verbal tal-istess udjenza.

Rat in-nota b`dokumenti li pprezentaw ir-rikorrenti fit-12 ta` April 2019 skont id-direzzjoni li nghataw fl-udjenza fuq riferita.

Rat illi r-rikors thalla ghal-lum ghal provvedimenti fil-miftuh.

## **II. L-Art 329B tal-Kap 386**

### **a) Harsa generali**

Il-procedura tal-irkupru ta` kumpannija maghrufa bl-Ingiliz bhala *company recovery procedure* jew *company rescue* kien introdott ghall-ewwel darba bl-Att IV tal-2003 meta sar l-Art 329B tal-Kap 386 tal-Ligijiet ta` Malta. In segwitu saru emendi ghall-istess disposizzjoni, l-ahhar wahda bl-Att XI tal-2017.

L-Art 329B huwa disposizzjoni **twila u komplessa**.

Il-Qorti qeghda taqsamha f` **sitt (6) partijiet**.

**L-ewwel parti** tingabar fis-subartikoli (1), (2) u (3). Hija ta` natura pregudizzjali fis-sens illi l-ligi tinseg il-kondizzjonijiet li fuqhom il-Qorti trid tasal ghad-decizjoni taghha li jew tichad it-talba jew inkella illi taghmel l-ordni biex il-kumpannija titqieghead taht procedura ta` rkupru.

**It-tieni parti** tingabar fis-subartikolu (4) fejn hemm trattati l-effetti ta` procedura ta` din ix-xorta, li jibdeu ighoddu mid-data tal-

presentata. Dawk l-effetti jintemmu fid-data li fiha t-talba ma tintlaqax. Jew ikomplu matul iz-zmien kollu li fih tkun giet awtorizzata l-procedura biex kumpannija tirkupra.

**It-tielet parti** migbura fis-subartikoli (5) (6) (7) (10) u (11) tittratta l-hatra, tnehija jew vakanza tal-kontrollur specjali kif ukoll, is-setghat u d-dmirijiet tieghu.

**Ir-raba` parti** hija s-subartikoli (8) u (9) fejn huma trattati kwistjonijiet ta` x`ghandu jsir meta fil-kors tal-procedura ta` rkupra negożju frawdolenti jew negożju hazin.

**Il-hames parti** hija s-subartikoli (12) u (13) li tittratta dwar it-terminazzjoni tal-ordni u l-ghoti ta` dokumenti lir-Registratur tal-Kumpanniji.

**Is-sitt parti** tingabar fis-subartikolu (14) li jittratta l-istralc tal-kumpannija mill-Qorti wara li jkun irrizulta li l-kumpannija ma jkollhiex prospetti ragonevoli biex tkompli bhala azjenda vijabbli u ma tkunx f`qaghda li thallas id-djun taghha b`mod regolari fil-futur.

**c) Il-kondizzjonijiet sabiex tinghata l-ordni**

Billi huma pregudizzjali min-natura taghhom, il-Qorti sejra tikkoncentra l-analizi taghha fuq is-subartikoli (1) (2) u (3) tal-Art 329B.

Skont **l-Art 329B(1)(a)** meta kumpannija ma tkunx tista' thallas id-djun taghha jew jew x`aktarx ikun imminenti li ma tkunx tista' thallas id-djun taghha, ikun hemm lok illi jsir rikors fejn il-Qorti tintalab sabiex il-kumpannija titqieghead taht procedura biex kumpannija tirkupra u biex tahtar kontrollur specjali biex jiehu kontroll hu, biex jimmanigga u jamministra n-negożju tal-kumpannija ghal zmien specifikat mill-Qorti.

Fil-kaz tal-lum, ghar-ragunijiet li kienu mfissra fl-ewwel parti tar-rikors promotur, u kkonfermati fid-deposizzjoni *viva voce* moghtija minn Kristian Haehndel, ir-rikorrenti **jaccettaw** illi l-qaghda taghhom tinkwadra ruhha fis-sitwazzjonijiet previsti fil-paragrafu (a) tas-subartikolu (1) ghaliex fid-data tal-prezentata tar-rikors, ma kienux *f`pozizzjoni li jhallsu d-djun taghhom*. Fil-fatt fost id-dokumenti li kienu prezentati mar-rikors kien hemm il-*Management Accounts* relattivi ghal kull kumpannija rikorrenti sat-18 ta` Marzu 2019, kif ukoll lista tal-kredituri, u x` huwa dovut lilhom.

Skont **I-Art 329B(1)(b)** rikors skont din il-procedura jista` jigi prezentat – (i) *jew mill-kumpannija wara rizzoluzzjoni straordinarja ; jew (ii) mid-diretturi wara decizjoni tal-bord tad-diretturi ; jew (iii) mill-kredituri tal-kumpannija li jirrapprezentaw aktar minn nofs il-valur tal-kredituri tal-kumpannija*. Fil-kaz tal-lum, ir-rikors kien prezentat mis-sitt rikorrenti, wara rizzoluzzjoni straordinarja f`kull wahda li ttiehdet fil-25 ta` Marzu 2019 (ara Dok D1 sa D6).

**FI-Art 329B(2)** il-ligi tidhol fid-dettall ta` x` ghandu jkun inkluz fir-rikors promotur. Il-ligi taghmel dan ghaliex peress li l-qorti tkun trid tippronunzja ruhha dwar ir-rikors fi zmien relattivament qasir, tajjeb li l-qorti jkollha bizzejjed informazzjoni u taghrif, korraborati b`dokumenti, sabiex tkun tista` tagha d-decizjoni taghha b`heffa, u ma tkunx kostrett tisma` xieghda u tigbor provi ohra fit-tul. Fil-kaz tal-lum dak rikjest mil-ligi kien rispettat mill-bidu sal-ahhar.

Id-disposizzjoni taqra hekk :-

(a) *Rikors ghandu, kemm hu possibli, jaghti l-fatti, ic-cirkostanzi u r-ragunijiet kollha li wasslu biex il-kumpannija ma tkunx tista' jew ikunu imminenti li ma tkunx tista' thallas id-djun taghha, flimkien ma' dikjarazzjoni mir-rikorrent ta` kif il-qaghda finanzjarja u ekonomika tal-kumpannija tkun tista' tittejjeb fl-interessi tal-kredituri u ta' l-impjegati taghha u tal-kumpannija nnifisha bhala azjenda vijabbli.*

(b) *Meta rikors ikun maghmul mill-kumpannija, ghandhom ikunu annessi mieghu d-dokumenti li gejgin :*

(i) dikjarazzjoni ta' l-attiv u l-passiv tal-kumpannija maghmula sa data li ma tkunx qabel id-data tar-rikors b'iktar minn xahrejn ; u

(ii) lista li jkun fiha l-ismijiet u l-indirizzi tal-kredituri flimkien ma' indikazzjoni ta' l-ammont dovut lil kull wiehed minn dawk il-kredituri u s-sigurtà, jekk ikun hemm, tal-kredituri rispettivi ...

**L-Art 329B(3)** jiddetermina x` ghandha taghmel il-qorti wara li tkun semgħet ir-rikors.

Id-disposizzjoni tghid hekk :-

(a) Meta tisma' rikors, il-Qorti tista', wara li tezamina c-cirkostanzi kollha u l-azzjonijiet li jkun hemm, jew tichad ir-rikors jew tohrog ordni biex kumpannija tirkupra ... fejn tilqa' t-talba u tqieghed lill-kumpannija taht procedura biex kumpannija tirkupra.

(b) Il-Qorti ghandha tilqa' r-rikors, u skond dan tqieghed lill-kumpannija taht procedura biex kumpannija tirkupra, biss jekk -

(i) tkun sodisfatta li l-kumpannija ma tkunx tista', jew x'aktarx ikun imminenti, li ma tkunx tista', thallas id-djun tagħha skond kif imfisser fl-artikolu 214(5) ; u

(ii) jekk tikkunsidra li l-ordni x'aktarx jilhaq xi wiehed mill-ghanijiet li gejjin :

- li l-kumpannija tibqa' azjenda vijabbli għal kolloxx jew f'parti ;

jew

- is-sanzjonament taht l-artikolu 327 ta' kompromess jew arrangament bejn il-kumpannija u kull kredituri jew membri tagħha

(c) Fl-egħmil ta' ordni, il-Qorti ghandha tikkunsidra :

(i) l-ahjar interessi tal-kredituri, ta' l-azzjonisti u tal-kumpannija nnifisha, u l-possibbiltà li thares l-impjegi kif ikun jidher ragonevoli u finanzjarjament possibli fic-cirkostanzi ; u



(ii) *il-kost li jkollu jsir biex tkun adottata procedura biex kumpannija tirkupra, partikolarment id-drittijiet u l-ispejjez li jkollhom jithallsu.*

Skont l-**Art 329B(3)(e)**, *il-qorti ghandha tiddeciedi jekk tichadx ir-rikors jew taghmilx ordni biex kumpannija tirkupra fi zmien ta` mhux aktar minn erbghin jum tax-xoghol minn meta jkun prezentat ir-rikors.*

Fil-kaz illi l-qorti taghmel l-ordni biex kumpannija tirkupra, allura skont l-**Art 329B(1)(d)**, *il-hatra ta` kontrollur speċjali ghandha ssir ghal zmien ta` mhux iktar minn erba` xhur ; izda f`kull zmien li matulu jkun hemm fis-sehh procedura biex kumpannija tirkupra, il-qorti tista`, jekk tintwera raguni xierqa, testendi zmien b`perijodu jew b`perijodi ta` erba` xhur, izda b`kollox ma jacedux it-tmien xhur.*

### **III. Dottrina**

Il-procedura sabiex kumpannija tirkupra ssib il-mudell taghha fil-procedura tal-**"administration"** kif din tirrizulta fis-Schedule B1 tal-Insolvency Act 1986 tal-Ingilterra. Bla ma tidhol fid-dettall ta` kif topera l-procedura fid-Dritt Inġliż, din il-Qorti tirreferi biss ghall-Art 11 tas-Schedule B1 li jghid hekk : *"The court may make an administration order in relation to a company only if it is satisfied – (a) that the company is likely to become unable to pay its debts ; and (b) that the administration order is reasonably likely to achieve the purpose of administration.*

Inghad minn **Bailey, Groves & Smith** fil-Pag 120 tal-ktieb **"Corporate Insolvency"** (2nd. Edit, 2001) illi –

*"Inevitably the procedure obliges the court, lawyers and accountants to approach the problem raised with commercial awareness and sensibility. The court, in particular, is being asked on the hearing of the petition to make a commercial judgement which is often difficult to make even for a business person. The procedure is court based and professional advisers must be involved from the earliest point possible ; much of the success of the procedure will*

*depend on the preliminary work leading up to presentation of the petition."*

Fil-Pag 45 tal-ktieb : "**Principles of Maltese Company Law**" (Malta University Press – 2007) **Andrew Muscat** ighid :-

*"The primary aim of this far reaching procedure is to allow, if practicable, companies in financial difficulty to recover rather than to be put them into liquidation. The procedure is intended to be an alternative to the liquidation of a troubled business. It is not however intended to make effective insolvency or to merely postpone the inevitable crash".*

Dan tal-ahhar huwa kliem iebes izda preciz li jqiegħed lill-Qorti fuq il-binariji propji meta tkun rinfaccjata bi procedura ta` din ix-xorta.

#### **IV. Konsiderazzjonijiet**

##### **1. Ix-xiehda ta` Kristian Haehndel**

Apparti d-dokumenti li kienu prezentati mar-rikors, u anke wara, ix-xhud principali f` dan il-procediment kien **Kristian Haehndel**. Dan huwa l-Kap Ezekuttiv tar-rikorrenti, u llum *ultimate beneficial owner* tagħhom, illi ta lill-qorti kwadru preciz ta` kull ma huwa rilevanti sabiex tagħti l-provvediment tal-lum.

##### **a) In-negozju**

In-negozju tar-rikorrenti fis-sostanza jdur mas-sistema tal-*blockchain* u l-*crypto-currency*.

##### **b) Ir-ragunijiet għall-formazzjoni tar-rikorrenti**

Xehed hekk :-

*... We originally created the company in Germany ... we migrated some of the operations to Malta. We also have a series of different companies that support the blockchain ecosystem in Malta.*

*In 2017 we arrived in Malta and met with several members of the Government as well with the MFSA. We have experience in blockchain for many years in Germany, and our partners at the time were one of the largest blockchain companies in the world. We had actively decided to promote blockchain in Malta, and around the end of 2017 we moved our operations here.*

*We looked at integrating the company as a pilot for the MFSA and for the Government to introduce a kind of landing strip where we can promote through our channels and our community other blockchain companies to arrive in Malta, and over that period from end of 2017 all the way up to middle of 2018 we were actively engaged with MFSA, with the Government, and promoting the potential of the economic benefits of blockchain ...*

*We were supporting on the consultation, it was stimulated by a combination of elements, one the potential to pilot new technology, and two to be involved in allowing, having a much more prominent role in the legislation.*

*DQR-X Limited was the original formation that was created at the early 2018. We quickly realised when we arrived on the island that the infrastructure of the ecosystem to support such a business was not at a mature state.*

*We decided to establish a second holding company which would address all of the needs for any blockchain participant on the island. We had the support of partners, Genesis Mining, the largest blockchain company, and we systematically went and grew these companies in an attempt to fill the gaps.*

**c) Il-kobor "mqhaggel" tal-2018**

Kompla jixhed :

*... we expanded from a small group of people, 10 or 15, all the way to 108 employees.*

*We had multiple apartments and offices in the Sliema region ...*

**d) Diffikultajiet finanzjarji ta` Genesis Mining**

Stqarr :

*... early October, we received information from our partners that they are experiencing financial difficulties, the market conditions of crypto currency had also fallen by 18% approximately, and they had asked us to consolidate, restructure the company, and later on that month asked us to file for insolvency.*

**e) Id-dilemma**

Skont ix-xhud, meta waslet dik l-informazzjoni dwar il-qagħda finanzjarja ta` Genesis Mining, ir-rikorrenti kienu fuq nett tal-izvilupp tal-prodott tagħhom.

Ighid :

*... We had systems integrated for compliance, auditing and reporting. We had developed a full front office and back office, so customer support, customer relationship management. We had promoted both blockchain events as well as a primary sponsor, and established relationships internationally, as well as onboard clients in the retail market.*

*Personally I invested €2,000,000, my entire livesavings. The other partners Genesis Mining had invested €1,000,000 to €2,000,000 as well.*

**f) Qagħda finanzjarja : iebsa u delikata**

Fisser illi :

*In October we had a burn rate of approximately €750,000 a month. This was financed predominantly by Genesis Mining. We had a*

*range of international consultants that were supporting the business, as well as a range of third party suppliers, some local and some international. Of course we had 100 employees in the various companies. We immediately saw the potential to restructure and consolidate the companies, reducing the costs, and tried to channel our assets in what we had developed in one core business, which was DQR-OTC.*

**g) It-trasferiment tal-ishma ta` Genesis Mining**

Kompla jixhed :

*Genesis Mining had suggested to go insolvent to solve the problem. I explained to Genesis that going insolvent was damaging for the blockchain space, also having economic problems to Malta as well, because we were so promoting it and really in front of it. So I decided to take a vote and if they wanted to leave, then I would consume the liability and proceed forward into a recovery phase. We then paid off the December salaries, and reduced all of the staff to the core functions. We went down from 108 to around 10. We put all our focus on delivering the product not for the retail market but for the institutional market.*

*Genesis Mining went out of the company by transferring its shareholding to him personally. He took over the liability himself. Today he is the sole shareholder of the holding company and the sole director.*

**h) Il-kredituri**

Stqarr illi mal-kredituri gabu ruhhom mill-aktar mod apert.

Jixhed :

*We notified the major creditors and asked them to submit the proposal for payment structure over a period of twelve to twenty four months.*

*The creditors have submitted a proposal on what they anticipated a payment schedule.*

...

*We have one creditor, who filed a case against us for €55,000. His claim was admitted. Naturally the case was decided against us. So far the €55,000 have not been paid.*

*We have many different letters from legal offices being sent to us, and of course threatening to disrupt or threatening to call psychological disturbance to our process here, and of course we meet with creditors on a personal level, and we had many instances where people have stolen equipment from our offices, have taken different things, and we've been trying to deal with it in a humane level.*

*The major creditors have been informed of the special recovery procedure.*

**i) Vantaggi bil-DQR-OTC**

*Ighid illi fil-formazzjoni ta` DQR-OTC,*

*... we were able to onboard a new investor, who is consuming a share for every tranche necessary to keep us moving forward.*

*We then engaged our institutional partners in Switzerland, to deliver our product, which is now in maturity to go to the market, and we are in the middle of a joint venture agreement with the banks in Switzerland. So we are in a critical stage when in four to six weeks we launch our product and commence generating fees on the trading that is conducted on the platform.*

*The business model is going to be a joint venture between the OTC and the Swiss partner.*

...

*The Swiss joint venture partner is Falcon Private Bank.*

*Falcon Private Bank is a very advanced blockchain bank, and they are looking at becoming a leader in Switzerland as the blockchain*

*institution. They are owned by a Consortium known as Mubadala with approximately \$280,000,000,000 under management, and the product which we have developed is of great interest to the consortium ...*

**j) Il-prodott il-gdid**

Fisser illi :

*The product is a blockchain token design for central banks in the banking system. The Swiss entity in Zurich is interested in promoting the product to their partner banks and their clients, so they are entering into this agreement in an attempt to develop technology and distribute it to the banking network directly in Switzerland. The desk will sit in Malta under DQR-OTC, and that will be the platform in which multiple institutions will onboard and make transactions amongst each other.*

**k) Prodott fuq ix-xoghol diga` kompjut**

Stqarr illi mar ghall-procedura odjerna ghaliex bil-prodott il-gdid gestit mill-OTC ix-xejra ghall-futur tkun positiva.

Ighid :

*I wanted to use the infrastructure that was developed, and all the hard work that was developed in the Maltese company, and I didn't want to abandon Malta and simply set up another company in a different jurisdiction. I felt that as a blockchain company and as promoters of technology we had to set an example for the rest of the community that if we have problems we face them and we find solutions.*

*There are two provisional licences from the MFSA that allows us to conduct the trading. One is in DQR-X and the other one is in DQR-OTC, the company which is going to recover.*

*Because we are moving the business away from retail market to institutional market, the volumes suggested a very quick recovery for DQR-OTC and the rest of the eco system, and the volumes that we are*

*estimating we have proposed in the documents which are structured over a period of several months of testing, so we have institutional clients testing the product and generating fees at that time, and then moving into complete production where it will be spread to the banking systems in Switzerland. So they are very substantial.*

*We will move the fees generated from OTC to the holding company, the holding company will then systematically pay off the debts of the other subsidiaries, and then we will decide to either liquidate the subsidiary once the debt is complete or absorb it directly into the DQR business model. So once we eliminate our liabilities we are intending to stay lean and focused on the core function.*

**l) Investment qdid**

*Ix-xhud irrefera ghas-share purchase agreement (Dok E1).*

Stqarr illi wiehed mill-akbar kredituri taghhom huwa MB Swiss Solutions SA u dan :

*has come in as an investor to support DQR.*

Skont Dok E1,

*€290,000 are pledged, so to say, to the company in three tranches. €97,000 have been paid for the month of March, and another two instalments are anticipated for April and May. Actually a second instalment has been received as well. The investor will receive in return shares in the DQR-OTC ...*

**m) Il-hlas tal-kredituri**

*Ix-xhud accerta lill-qorti illi :*

*We are able to pay off everything within the four months, but definitely we can structure a payment plan during those four months.*

**n) Il-Proposta ta` Rkupru**



Dwar id-dokument intitolat "DQR-OTC to Recover the Group" (Dok C1) stqarr illi kien huwa li kiteb id-dokument u l-kontenut huwa propositiv u frott ir-riflessjonijiet tieghu.

**o) Il-kontijiet**

**L-accounts kien preparati internament minn Ben Carlotti, Chief Financial Officer, u kienu awditjati wkoll.**

**L-istess Carlotti kkonferma l-accounts bil-gurament tieghu fl-udjenza tal-5 ta` April 2019.**

**2. Il-fehma ta` din il-Qorti**

Wara li ghamlet ezami tal-kontijiet tar-rikorrenti, u wara li qieset dak dovut lill-kredituri, il-Qorti tistqarr li l-qaghda finanzjarja tar-rikorrenti mhijiex felici ghax *conti in mano* fid-data tal-presentata tar-rikors odjern kienet tinsab f` xifer l-insolvenza, kif mifhuma fil-Kap 386.

**Il-qaghda difficili tar-rikorrenti hija rikonoxxjuta u accettata minn Kristian Haehndel. Il-qofol ta` kollox huwa jekk is-sitwazzjoni hijiex irreversibbli nkella le.**

Din il-Qorti tistqarr bla tlaqlieq illi xejn ma kien izomm lill-*ultimate beneficial owner* milli jmur ghax-xoljiment u stralc tar-rikorrenti, kif *del resto* jidher illi kien ippropona dak li qabel kien l-azzjonista l-iehor u cioe` Genesis Mining.

Ir-riskju kien illi l-kredituri jispicaw ma jiehd u xejn.

Minflok ghazel il-procediment tal-lum.

Ghamel din l-ghazla sabiex izomm il-kredibilita` tieghu mal-kredituri kif ukoll sabiex litterament "ma jarmix" kull hidma fil-kamp tas-sistemi ta` blockchain avvanzati li kien irnexxielu johloq bil-hidma tieghu u tal-ghadd ta` impjegati li kellu.

Il-Qorti taghti affidament lit-testimonjanza ta` Kristian Haehndel ghaliex setghet tapprezza l-komportament tieghu meta xehed *viva voce* quddiemha kif ukoll kif *punto per punto* kull ma xehed huwa konfortat minn dokumenti.

**Il-Qorti tghid illi *r-recovery proposal* u d-dokumenti l-ohra *prima facie* huma fattibbli, u ma jippregudikawx lill-kredituri.**

**Ghalhekk sejra tqis ir-rikors b`mod favorevoli, ghaliex hija sodisfatta li r-rikorrenti qaghd u ma` dak kollu li jitlob l-Art 329B, inkluz illi l-qorti nghatat spjegazzjoni tac-cirkostanzi li wasslu ghall-qaghd ta' bhalissa.**

**Il-Qorti qieset kif il-progett tar-rikorrenti jista` jaqleb il-qaghd finanzjarja taghhom lejn il-posittiv ghall-beneficcju taghhom, tal-azzjonisti u tal-kredituri, sahansitra bil-fatt li jibqa` jsir negozju, sakemm jinhelsu d-djun u jkun hemm folja gdidau tajba abbazi ta` prodott diga` mahluq.**

**Il-Qorti tishaq illi l-pjan tal-irkupru propost mir-rikorrenti mhuwiex *a fairy tale*.**

**B`hidma assidwa fejn kulhadd izomm saqajh ben saldi mal-art jista` jigi attwat fl-interess ta` kull min qieghed flusu fil-progett originali li nkalja, izda u fuq kollox fl-interess tal-kredituri.**

**Bi strategija azjendali attenta, il-kurrent avvers jista` jigi rimedjat.**

**Il-Qorti terga` tishaq illi l-azzjonist tar-rikorrenti minflok mar ghall-procedura ta` xoljiment u stralc bil-konsegwenzi kollha (aktar negattivi milli posittivi taghha) li procedura ta` dik ix-xorta timporta, irrikorra ghall-procedura tal-lum sabiex prevja d-debiti kawteli, kif ukoll kontrolli mill-qorti, isiru l-bidliet kollha li hemm bzonn sabiex hadd ma jibqa` l-art speċjalment il-kredituri.**

**Din il-fehma taghha hija riaffermata kemm b`dak li kien verbalizzat mir-rikorrenti fl-udjenza tal-5 ta` April 2019 kif ukoll bid-dokumenti li kienu prezentati b`nota mir-rikorrenti fit-12 ta` April 2019. Dan ghalix il-Qorti ghandha l-konfort li kull ma ser jidhol mill-ftehim ma` MB Swiss Solutions SA ser imur l-ewwel sabiex jithallsu l-kredituri ghas-saldu.**

**Il-Qorti tghid illi l-kredituri ghandu jkollhom l-interess li jithallsu finalment fi zmien ragonevoli dak li ghandhom jiehd, mhux jaraw lid-debitur taghhom imut mewta (naturali jew forzata) bil-konsegwenza reali li jispicaw ma jirkupraw xejn jew ftit minn dak dovut lilhom. Naturalment f`cirkostanzi ta` din ix-xorta il-bilanc tal-interessi ghandu rilevanza ewlenija.**

### **Provvediment**

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

**Tilqa` l-ewwel (1) talba. Ghalhekk tqieghed kull wahda mill-kumpanniji rikorrenti taht procedura biex kumpannija tirkupra ("company recovery procedure") kif previst bl-Art 329B tal-Kap 386 tal-Ligijiet ta` Malta.**

**Tilqa` t-tieni (2) talba. Tahtar b`effett mil-lum bhala Kontrollur Speċjali ghall-finijiet tal-Art 329B(5) tal-Kap 386 lill-Awditur Tonio Fenech, billi l-Qorti hija sodisfatta li huwa persuna li ghandu l-hila u l-esperjenza mehtiega biex iwettaq din il-hatra. Lilu taghti s-setghat u dmirijiet ta` tmexxija u**

**amministrazzjoni tal-gid tal-kumpanniji rikorrenti, kif ukoll l-amministrazzjoni tan-negozju tal-istess, għall-finijiet u effetti kollha tal-ligi.**

**Riferibbilment għat-tielet (3) talba, u bl-applikazzjoni tal-Art 325B(1)(d) tal-Kap 386, tipprefigi terminu ta` erba` (4) xhur mil-lum sabiex fihom jespleta l-inkariku tiegħu.**

**Riferibbilment għar-raba` (4) u l-hames (5) talbiet, tistabilixxi r-remunerazzjoni ta` l-Kontrollur Speċjali hekk nominat illum fl-ammont ta` tmint elef Ewro (€8,000), liema ammont għandu jithallas fi zmien xahar mil-lum.**

**Tikkonferma li l-Kontrollur Speċjali għandu s-setgħat kollha previsti mill-Kap 386 tal-Ligijiet ta` Malta.**

**Tagħti lill-Kontrollur Speċjali zmien sa mhux aktar minn xahrejn mil-lum sabiex jipprezenta rapport inizjali tal-hidma tiegħu, kif previst mill-Art 329B(6)(c) tal-Kap 386, u rapporti oħrajn minn zmien għal zmien skont kif jipprovdi l-Art 329B(11) tal-Kap 386.**

**Tidderigi lill-Kontrollur Speċjali sabiex isejjah fiz-zmien stabbilit mill-Art 329B(7) tal-Kap 386 dawk il-laqgħat mal-kredituri u/jew tal-membri, li huwa jqis fid-diskrezzjoni tiegħu bħala mehtiega sabiex jingħata t-tagħrif, u sabiex jitwettaq kif imiss l-inkariku tiegħu.**

**Tordna li sakemm tibqa' fis-sehh il-procedura tal-lum, jibqa` operattiv kull ma jingħad fl-Art 329(4) tal-Kap 386.**

**Tordna lill-kumpanniji rikorrenti sabiex a spejjez tagħhom jieħdu hsieb immedjatament in-notifika ta' dan il-provvediment lir-Registratur tal-Kumpanniji, lir-Registratur tal-Qorti u lill-Kontrollur Speċjali Awditur Tonio Fenech.**

**Tordna lill-kumpanniji rikorrenti sabiex, sa zmien ghaxart (10) ijiem mil-lum, igibu avviz ta' daqs xieraq f'zewg gurnali lokali, wiehed bl-ilsien Malti u l-iehor bl-ilsien Ingliz, b'sunt tal-parti dispozittiva tal-ordni moghtija b'dan il-provvediment.**

**Onor. Joseph Zammit McKeon  
Imhallef**

**Amanda Cassar  
Deputat Registratur**