

- Certified copy -

**Bad Homburg v.d.Höhe District Court**

27.11.2019

**- Insolvency court -**

**61 IN 88/19**

(please always quote)

[coat of arms]

**Decision**

In the insolvency proceedings concerning the assets of

Thomas Cook Touristik GmbH, represented by managing director S. Patzak, Thomas Cook Platz 1, 61440 Oberursel (Bad Homburg District Court, commercial register HRB 4617),

the insolvency proceedings as the main proceedings pursuant to Article 3 paragraph 1 EulnsVO (European Insolvency Regulation), §§ 2, 3, 11, 16 et seq. InsO (Insolvency Regulation) are opened today, on 27.11.2019 at 07:45 a.m.

Appointed as insolvency administrator is:

**Lawyer Ottmar Hermann, Goldsteinstr. 114, 60528 Frankfurt am Main, tel.: 069/34 87 13 2-0, fax: 069-34 87 13 2-99**

The debtor is prohibited from disposing of its current and future assets belonging to the insolvency estate for the duration of the insolvency proceedings. The power of disposal is assigned to the insolvency administrator.

Debt-relieving payments to the debtor can no longer be made after the opening date. If, nevertheless, the debtor is paid and the funds do not come into the insolvency estate, there is a risk of a renewed obligation to pay the insolvency administrator.

The insolvency administrator is charged with serving pursuant to § 8 para. 3 InsO. Further, pursuant to Art. 54 EulnsVO he assumes the provision of the required information to all known foreign creditors. Excluded is the serving of the order of the commencement of proceedings to the debtor; this is done by the insolvency court. The public notices remain the responsibility of the insolvency court.

**The creditors are requested:**

- a) to file insolvency claims (§ 38 InsO) with the insolvency administrator in writing, enclosing documents, invoices and any other documents existing with regard to the claim in compliance with § 174 InsO by: **28.04.2020. The lodgement can also be done by sending an electronic document.**
- b) to immediately inform the insolvency administrator which security interests they claim to have in movable property or rights of the debtor. Details are to be provided of the object of the claimed security interest, the nature and causal origin of the security interest as well as the secured claim. Any person who by fault omits to provide this information, or provides it late, shall be liable for the consequent damage (§ 28 para. 2 InsO).

When lodging, the reason and amount of the claim must be stated.

The lodgement of claims and the insolvency table may be inspected within the first third of the period which lies between the expiration of the registration period (28.04.2020) and the key date specified below upon which the claims will be reviewed in writing (28.05.2020) by the parties involved at the registry of the Bad Homburg v.d.H. District Court - Insolvency Court -, Auf der Steinkaut 10-12, 61352 Bad Homburg v.d.H.

The deposition takes place in digital form.

Any registration documents will be kept with the insolvency administrator and may be requested for inspection by the insolvency court if required.

**Persons who have obligations to the debtor are required** no longer to fulfil these obligations to the debtor, but to the insolvency administrator (§ 28 para. 3 InsO).

The following meetings will be held before the insolvency court:

1. a creditors' assembly by oral procedure for reporting by the insolvency administrator (**report meeting**); on:

**Monday, 27.01.2020, 11:30 a.m., Bad Homburg Congress Centre - Landgraf-Friedrich-Saal -, Luisenstraße 58, 61348 Bad Homburg v.d.H.**

Approach via Ludwigstraße 3 (entrance through Maritim Hotel Kurhaus garage).

**Admission from 9:00 a.m.** An admission control will be performed. It is recommended to arrive at the venue early. When authorizing to attend the meeting, § 79 ZPO (Code of Civil Procedure) in conjunction with § 4 InsO must be observed. Pursuant to § 79 ZPO it is only possible to be represented by one of the persons named therein.

At the same time the meeting serves the decision of the creditors on

- the person of the insolvency administrator (§ 57 InsO),
- the establishment or maintenance in office and appointment of a creditors' committee (§ 68 InsO).



and optionally on:

- rendering of intermediate accounts to the creditors' assembly (§ 66 para. 3 InsO),
  - an agency and conditions of deposit for investment of currency, securities and objects of value (§ 149 InsO),
  - the progress of the proceedings (§ 157 InsO); e.g. company closure, provisional continuation or insolvency plan,
  - the disposition of the insolvency estate (§ 159 InsO),
  - particularly important legal transactions of the insolvency administrator (§160 InsO); in particular: the sale of the company or the business of the debtor, the entire stock, a part of the immovable property to be disposed of by private sale, the debtor's shares in another undertaking if such shares are intended to bring about a permanent affiliation to such other undertaking, the entering into of a loan which would considerably burden the insolvency estate, bringing, joining, negotiating a settlement in respect of or avoiding a court action amounting to a considerable value in dispute,
  - a sale of a business to persons with specific interests or a sale of a business below value (§§ 162, 163 InsO),
  - an application for an order for debtor-in-possession management (§ 271 InsO),
  - a discontinuation of the proceedings by the court pursuant to § 207 InsO without convening a special creditors' assembly,
2. The review of the filed claims will be carried out pursuant to § 5 para. 2 InsO as written proceedings. The key date corresponding to the review date is **28.05.2020** due to the large number of expected claims.

The parties will have the opportunity to object to the lodgement of claims in writing at the insolvency court. A written objection with which a party disputes a claim must reach the court no later than on the review key date of 28.05.2020. The objection must state whether the claim is being disputed on account of its reason, amount or order of priority. After expiry of the objection period the claims are reviewed; claims against which no objection has been filed shall be deemed to have been admitted unless the insolvency administrator disputes them.

#### **Notes:**

- > Approvals of the creditors to the above-mentioned agenda items are deemed to have been granted even if a convened assembly of creditors has no quorum.
- > Creditors whose claims have been admitted will not be notified.

In accordance with § 67 para. 2 InsO a creditors' committee is appointed until the first creditors' assembly. This consists of the following members:

creditors' assembly. This consists of the following members:

1. Pensionssicherungsverein, represented by Lawyer Dr. Marko Brambach, Bahnstraße 6, 50996 Cologne

2. Vorsitzender des Betriebsrats Mitte (Chairman of the Works Council Centre)  
Dr. Tobias Nägele, Schulstr. 7, 61350 Bad Homburg v.d.H.
3. Zürich Versicherungen, represented by Mr Thart, Solmsstr. 27-37, 60486  
Frankfurt am Main
4. Bundesagentur für Arbeit (Federal Employment Agency), represented by Ms  
Claudia Weber-Arnoldt, Fischerfeldstr. 10-12, 60311 Frankfurt am Main
5. Amadeus Leisure IT GmbH, Carlo-Schmid-Str. 12, 52146 Würselen/Aachen,  
represented by Ms Uta Martens

### **Deletion periods:**

The deletion of publications in an electronic information and communication system takes place according to § 3 InsoBekV (Regulation on Public Notices in Insolvency Proceedings). The deletion periods are as follows:

- > Publications made in the lodgement or insolvency proceedings are deleted no later than six months after the cancellation or the legal validity of the termination of the insolvency proceedings. If the proceedings are not opened, the deadline begins with the repeal of the published safeguards.
- > Other publications under the Insolvency Code are deleted one month after the first day of publication.

### **Reasons:**

The debtor is insolvent. This is established to the satisfaction of the court on the basis of the investigations carried out, in particular on the basis of the opinion of the provisional insolvency administrator lawyer Ottmar Hermann of 22.11.2019.

The international jurisdiction of the District Court of Bad Homburg v.d.Höhe arises from Article 3 para. 1 of Regulation (EU) 2015/848, as the debtor has the centre of its main interests in the Federal Republic of Germany.

### **Right to appeal**

The decision may be challenged by the debtor, the Pension Security Association, the Federal Financial Supervisory Authority and, in the case of legal persons and associations without legal personality, by any member of the representative body or any personally liable partner with an immediate appeal. Moreover, if Article 5 paragraph 1 of Regulation (EU) 2015/848 seeks to challenge the lack of international jurisdiction to open main insolvency proceedings, the immediate appeal can also be lodged by any creditor.

It is to be lodged within an emergency period of 2 weeks at the Amtsgericht Bad Homburg v.d.Höhe, Auf der Steinkaut 10-12, 61352 Bad Homburg v.d.Höhe.

The period begins with the service or with the announcement of the decision. Insofar as the service is effected by public notice, it shall commence as soon as two further days have elapsed after the date of publication. If the public announcement is made in addition to the service, the earlier event shall be decisive for the beginning of the period.

The appeal may be filed by lodging a notice of appeal at the above mentioned District Court or recorded at the registry of any district court, whereby the observance of the deadline is determined by the time of receipt at the a. m. court. It shall be signed by the complainant or his duly authorized representative. The appeal must include the title of the contested decision and the statement that the appeal is being brought against this decision. If the decision is to be challenged only in part, the extent of the challenge must be designated.

The complaint should be justified.



Marhold  
District Court Judge

Certified

Bad Homburg v.d.Höhe, dated 27.11.2019

[signed: illegible] [stamp: BAD HOMBURG v.d. Höhe District Court 37]

Jagelke, Court Clerk  
as Registrar of the Court

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Ende der Übersetzung / End of translation  
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Als in Bayern öffentlich bestellter und beeidigter Übersetzer für die englische Sprache bestätige ich: Vorstehende Übersetzung der mir ~~im~~ Original/~~in beglaubigter Abschrift~~/in Fotokopie vorgelegten, in deutscher Sprache abgefassten Urkunde/n ist/sind richtig und vollständig.

Certified true and complete translation of the ~~original/certified~~ ~~copy~~/photocopy presented to me in the German language.

München, 16.12.2019

Myles M. F. OLIVER

*Myles Oliver*

