

IN THE COURT OF FIRST INSTANCE  
OF THE ASTANA INTERNATIONAL FINANCIAL CENTRE

15 August 2022

CASE No: AIFC-C/CFI/2022/0016

UNICORN FEED LIMITED

Claimant

v

INTER-TRADE 2050 LIMITED LIABILITY PARTNERSHIP

Defendant

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JUDGMENT

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Justice of the Court:

Justice Sir Stephen Richards

**ORDER**

**The Court sanctions under section 124 of the AIFC Companies Regulations the arrangement for amalgamation of the Defendant with the Claimant on the basis set out in the judgment below.**

**JUDGMENT**

1. By a claim form issued on 2 August 2022 the Claimant applies for an order under section 124 of the AIFC Companies Regulations sanctioning an arrangement for amalgamation of the Defendant with the Claimant.
2. The Claimant is Unicorn Feed Limited (“the Company”), a Private Company registered in the Astana International Financial Centre. Unicorn Holdings Limited (“Unicorn Holdings”) owns 100% of the shares in the Company.
3. The Defendant is Inter-Trade 2050 (“the LLP”), a Limited Liability Partnership. The Company is the sole participant of the LLP.
4. The claim is made under the Abridged Procedure in Part 23 of the AIFC Court Rules, in accordance with the guidance given by Justice Andrew Spink QC in previous cases in this Court (see Case No. 11 of 2021, *Wemining Limited v Wemining LLP*; Case No. 12 of 2021, *Unicorn Crops Limited v Kialy Agro-10 LLP & Others*; Case No. 2 of 2022, *Caspian Research Group Limited v Astana Invest LLP*). The relevant application is contained within the claim form. The LLP has not filed an acknowledgment of service in accordance with Rules 23.7 to 23.9 but its authorised representative has indicated by email to the Court Registry that the LLP does not contest the application and requests the Court to review the application in accordance with its content.
5. The documents supplied to the Court in support of the application include:
  - (1) A written confirmation on behalf of Unicorn Holdings that for the purpose of resolving outstanding disputes between it and the Company, it has resolved among other matters to amalgamate the LLP with the Company and to approve an Agreement on Amalgamation in a form provided to the Court. This is confirmed in turn by minutes of meetings of the shareholders and Board of Directors of Unicorn Holdings held on 14 February 2022.
  - (2) A resolution dated 14 February 2022 of the Company, as sole participant in the LLP, for reorganisation in the form of amalgamation of the LLP with the Company and approving the Agreement on Amalgamation among other matters.
  - (3) The Agreement on Amalgamation itself. It provides for amalgamation of the LLP and the Company, with the transfer of all rights and obligations of the LLP to the Company. It sets out basic data on the balance sheets of the parties. It deals with the procedure for the reorganisation, including notification of creditors and relevant authorities, and it provides that at the end of the process the Company is to

become the legal successor of the LLP for all obligations of the LLP and that the LLP is to be excluded from the National Register of Business Identification Numbers of the Republic of Kazakhstan.

- (4) Statements of notification of creditors of the Company and creditors of the LLP as to the proposed amalgamation. The Court has received no record of any objection by creditors.
  - (5) Statements on the financial position of the Company and the LLP, covering short-term and long-term liabilities and assets, and capital; and separate statements as to tax arrears/over-payments of the Company and the LLP.
6. Section 124 of the AIFC Companies Regulations applies by section 124(1) if a compromise or arrangement is proposed between a company and its shareholders. The section applies in this case on the basis that the matters summarised above constitute a proposed arrangement between the Company and its sole shareholder, Unicorn Holdings.
  7. By section 124(2) the Court may order that a meeting of shareholders be held to vote on the proposal, and by section 124(3) the Court may sanction an arrangement if a majority in number representing threequarters of the voting rights of the shareholders present and voting at the meeting agree to the arrangement. However, the Court's power to sanction the arrangement under section 124(3) arises in this case without the need to order such a meeting, since the sole shareholder in the Company has already passed a resolution in favour of the proposal on the basis of full information as to the arrangement.
  8. The Company and the LLP have both agreed to the arrangement and, according to the information provided in the claim form, have already signed the Agreement on Amalgamation.
  9. The arrangement appears adequately to protect the position of third parties by the transfer of all rights and obligations of the LLP to the Company. It is true that the Court has only limited information as to the financial position of the amalgamated enterprise and that on the face of it the Company's overall liabilities exceed its assets; but the stated liabilities of the LLP are relatively small, creditors have been notified and, as noted above, the Court has received no record of any objection.
  10. In the circumstances I consider it appropriate for the Court to sanction the proposed arrangement by order under section 124(3).

By the Court,

Justice Sir Stephen Richards

Justice, AIFC Court



Representation:

The Claimant was represented by Mr. Shynggys Oralbayev Beibituly, Grata Law Firm LLP.

The Defendant was represented by Mr. Adil Donakov Talgatovich, Grata Law Firm LLP.