

JUDGMENT SUMMARY

| | |
|-----------------------------------|---|
| Neutral Citation | [2022] ADGMCFI 0006 |
| Case Number | ADGMCFI-2020-020 |
| Name of Case | NMC Healthcare LTD and associated companies |
| Judge | Justice Sir Andrew Smith |
| Date Issued | 26 September 2022 |
| Catchwords | Application to extend Administrations. Whether the purpose of the administrations remain reasonably likely to be achieved. Whether any prejudice would be caused to creditors by an extension. Relevance of views of creditors. |
| Cases Cited | In the matter of Lehman Brothers [2016] EWHC 3379 (Ch) Nortel Networks UK Limited (in Administration) and the Administration of Associated Companies [2017] EWHC 3299 (Ch) |
| Legislation and Authorities Cited | ADGM Insolvency Regulations 2015 – Sections 110 and 118 |
| Executive Summary | <p>This judgment concerns the administration of NMC Healthcare Limited (“Healthcare”) and NMC Holding Limited (“Holding”). The judgment considered: (i) an application to extend the existing administrations of Healthcare and Holding; and (ii) an application to align reporting periods.</p> <p>Ultimately, the Court granted the request to extend the administration of Healthcare until 26 September 2025, and Holding until 26 September 2024, based on the need to achieve the purpose of the administrations, the lack of prejudice to creditors, and the views of the creditors. The judgment explains that the extensions are necessary due to the complexity of the case, which involves substantial fraud and ongoing investigations or potential litigation. The judgment also approved the alignment of reporting periods for Healthcare.</p> |
| Overall Summary | Background |

| | |
|--|--|
| | <p>This Abu Dhabi Global Market (“ADGM”) Court of First Instance (Commercial & Civil Division) judgment concerns applications made by the Joint Administrators (the “JAs”) of NMC Healthcare Limited (“Healthcare”) and NMC Holding Limited (“Holding”). The JAs applied for extensions to the administrations of these two companies.</p> <p>The companies are part of the NMC Group, which provided healthcare in the UAE. The Group became insolvent due to a very substantial fraud. On 27 September 2020, Healthcare and Holding were among 36 companies in the Group placed into administration by Court Order. The JAs were appointed joint administrators of all 36 companies.</p> <p>Restructuring proposals were outlined to all financial creditors in April 2021. At the meeting on 1 September 2021 it was resolved that the 34 companies and also Healthcare be placed under Deed of Company Arrangements (“DOCAs”) proposed. The DOCAs for the 35 companies were duly executed on 21 February 2022. With regard to the 34 companies (excluding Healthcare), the restructuring effective date as defined in the relevant documentation has occurred and the administrations have therefore ceased under the terms of the DOCAs. In the case of Healthcare, the administration continues and is not affected by the occurrence of the restructuring effective date: that administration is to continue until 26 September 2022, as is that of Holding. That is why this application to extend the administrations was made in respect of an extension of only these two companies.</p> <p>The first application requested an extension effectively for a period of three years to 26 September 2025. The legal basis for extending an administration is Section 110 of the ADGM Insolvency Regulations 2015, which allows the Court to extend an administrator’s term of office.</p> <p>Analysis and Conclusion</p> <p>The Court considered whether the administrations should continue and, if so, for how long. The Court referred to several factors (as stated in Nortel Networks UK Limited (in Administration) and the Administration of Associated Companies [2017] EWHC 3299 (Ch)) including: (i) whether the purpose of the administration remains reasonably likely to be achieved; (ii) whether any prejudice would be caused to creditors by an extension; and (iii) any views expressed by creditors.</p> <p>The Court found that the purpose of the administration, to achieve better results for the companies and their creditors, was still reasonably likely to be achieved for both Healthcare and Holding. No prejudice to creditors was suggested or appeared likely, and no resistance or objection had been raised by creditors who were given notice of the applications. Therefore, the Court concluded that the administrations of both Healthcare and Holding should be extended.</p> <p>Regarding the length of the extension, the Court accepted the three-year period requested for Healthcare (26 September 2025), concluding that ongoing litigation already afoot justified the extension of three years.</p> |
|--|--|

| | |
|--|--|
| | <p>It was considered highly improbable that this litigation would be resolved significantly sooner.</p> <p>For Holding, the justification for the three-year period was based on claims, or potential claims, which were being investigated. It was contemplated that this would take up to two years, followed by a decision on whether to pursue such claims through litigation.</p> <p>The Court determined that a two-year extension is appropriate for Holding to allow for this investigation. At the end of this two-year period, if litigation is pursued, the JAs may apply for a further extension. Therefore, the administration of Holding was extended until 26 September 2024.</p> <p>The Court also addressed a second application to align the reporting periods for Healthcare under the administration Order of September 2020 and the DOCA. This application was granted as it was considered sensible and appropriate.</p> |
|--|--|

This statement is not intended to be a substitute for the reasons of the Court or to be used in any later consideration of the Court’s reasons.