EASTERN CARIBBEAN SUPREME COURT
TERRITORY OF THE VIRGIN ISLANDS
COMMERCIAL DIVISION

IN THE HIGH COURT OF JUSTICE

Claim No. BVIHC (Com) No. 149 of 2013

IN THE MATTER OF SECTION 86 OF THE BUSINESS COMPANIES ACT 2004
AND IN THE MATTER OF AMAZING INC.

BETWEEN:

[1] CHANG HO KWOK DAVID
[2] SILVER SHADOW COMPANY LIMITED

Claimants

and

[1] WINBLESS INC
[2] AMAZING INC

Defendants

Appearances:

Mr Jeremy Child and Ms Colleen Farrington for the Claimants
Mr John Carrington QC for the first Defendant
The second Defendant did not appear

.....
2014: March 12
March 19
.....

JUDGMENT

(Shareholder requesting members meeting under section 82(2) Business Companies Act, 2004 ('BCA') – no board meeting held for purpose of convening members meeting – one of two directors purporting to convene members meeting – whether members meeting validly convened – **In re State of Wyoming Syndicate**[1] considered and followed – shareholder applying in alternative for Court to convene members' meeting pursuant to section 86(1)(a) and (b) BCA – section 86(1)(b) considered – whether conditions for convening meeting under section 86(1)(a) met – **In re El Sombrero Ltd**[2] considered and applied – whether fact that purpose of

[1] [1901] 2 Ch 431
[2] [1958] 1 Ch 900

meeting was to remove director meant that section 86(1)(a) of no application – **Ross v Telford**[3] considered – whether shareholder trustee to be enjoined to vote at meeting in accordance with beneficiary's directions)

[1] This is a claim by the second Claimant, Silver Shadow Company Limited (Silver Shadow') for a declaration that resolutions purportedly passed on 18 October 2013 by the second Defendant, Amazing Inc ('the Company'), were validly passed; or alternatively, for an order under section 86(1) of the Business Companies Act, 2004 ('section 86(1),' 'the BCA') for the convening of a meeting of the Company, coupled with an order directing the first Defendant, Winbless Inc ('Winbless'), to vote at such meeting in accordance with the directions of the first Claimant ('Mr Chang').

[2] The Company was incorporated in February 1993 under the International Business Companies Act, 1984. It is common ground that its entire issued share capital is beneficially owned by Mr Chang. Its function appears to be to hold Mr Chang's interests in a group of Chang family companies. For reasons which are not explained, its only two issued shares were issued to and are held by Silver Shadow (one share) and Winbless (one share). Silver Shadow is owned and controlled by one of Mr Chang's brothers and he is and has been content to vote its share in accordance with Mr Chang's wishes. Winbless is owned and controlled by Mr Chang's sister ('Ms Irene Chang'). The Company has had three directors, Silver Shadow, Winbless and the siblings' mother ('Mrs Chang') but the evidence is that Mrs Chang's mental and physical condition deteriorated to such an extent that she ceased to be a director of the Company[4] some time ago, leaving Winbless and Silver Shadow as the only two present directors of the Company.

[3] The Company is required to have at least one and not more than seven directors. The quorum for board meetings (on the footing that Mrs Chang is no longer a director) is one director, but a minimum of three days notice of meetings of directors must be given. Questions arising at board meetings are to be decided by a majority, with the chairman having a casting vote. There is no standing chairman of the board. The board has a power to delegate, but if that power has ever been exercised, it has not been exercised in a sense material to the issues in this case.

[4] The directors have power to convene meetings of members at such time and place and in such manner as they think fit. Importantly for present purposes, they are obliged, by the terms of one of the Company's Articles of Association, mirroring the provisions of section 82(2) of the BCA, to convene a members' meeting on the written request of

[3] [1997] BCC 945

[4] pursuant to Article 56(c) of the Company's Articles of Association

members holding more than 10% of the voting power carried by the Company's issued share capital from time to time. The quorum for a meeting of members is the presence of a member holding at least 50% of the shares of each class – meaning that a meeting consisting of either of Silver Shadow or Winbless alone would be quorate.

[5] Finally, I should mention that the Company's Articles of Association provide that transfers of shares take effect subject to approval by a resolution of directors, on registration and surrender of the certificate representing the transferred shares. There are no default provisions to deal with the position if the board refuses, or merely withholds, consent to registration.

The dispute

[6] There is an express written declaration of trust by Winbless of its share in the Company in favour of Mr Chang. The declaration states that Winbless holds the share as his nominee. Winbless undertakes to transfer the share to Mr Chang, or to his order, on request. The declaration further provides that Mr Chang has the right at any time to dispose of the share by executing, as Winbless' agent, all relevant documents of transfer, including an instrument of transfer and bought and sold notes. Finally, Mr Chang was given a power of attorney to complete or alter any transfer so made. In fact, there is in existence a transfer of the single share executed by Winbless in favour of Mr Chang and dated 11 July 2012 ('the transfer'). It may be incomplete in certain particulars but, as I have said, Mr Chang is in a position to fill in any missing particulars.

[7] On 15 August 2012 Mr Chang's brother sent the transfer to a company secretarial agency employed by the Company in Hong Kong ('Proserve') asking it to register a transfer of the share from Winbless to Silver Shadow. This instruction was confirmed in a letter from Mr Chang. Proserve declined the request in the absence of an order of the Court, citing in support of that refusal ongoing litigation involving the family.

[8] Silver Shadow's next move was to convene a board meeting in November 2012 for the purpose of considering the transfer and approving registration of Silver Shadow as member in place of Winbless, but Winbless refused to attend on the grounds that it would be a waste of time for it to do so, saying that the meeting was certain to be deadlocked. Rightly or wrongly, Silver Shadow/Mr Chang took the view that this refusal meant that no business could be transacted at the meeting and Mr Chang subsequently brought proceedings 'claim no 18' here to compel Winbless to transfer legal title in the share to Silver Shadow and for the rectification of the Company's register accordingly. An application for summary judgment was dismissed on 15 May 2013. I understand that that decision is presently under appeal. Those proceedings are therefore currently at a standstill.

[9] In the course of those proceedings, Ms Irene Chang/Winbless made clear that there was no objection to a transfer to Mr Chang personally. Winbless did, however, object to a transfer to Silver Shadow in the absence of execution by Mr Chang of a declaration that in requiring the share to be transferred to Silver Shadow he is not engaged in evading United States revenue or criminal laws and an indemnity indemnifying Winbless against any liability it might incur by making the transfer to Silver Shadow instead of to Mr Chang. The reasons given why Ms Irene Chang/Winbless should be under any apprehension in this regard are self evidently spurious. In fact, and given the terms of the declaration of trust, Winbless can have no grounds for refusing to transfer the share to any party at Mr Chang's direction, short of such transfer infringing the laws of the Hong Kong SAR, something which Winbless does not allege. It has no right to impose conditions for compliance with its sole beneficiary's instructions.

[10] On 26 September 2013 Silver Shadow delivered to the Company, as it was entitled to do, a written request, dated 25 September 2013 and made pursuant to section 82(2) of the BCA, for the convening by the Company of a members' meeting for the purposes of considering and approving resolutions removing Winbless (and Mrs Chang senior) from the Company's board and for the consequential amendment of the Company's Register of Directors. A copy of the notice was also sent to Sabals Law, which had acted for Winbless in claim No 18, asking that the meeting be convened for 18 October 2013 at an address in Hong Kong. Sabals Law was asked to confirm that Winbless agreed to the convening of this meeting and that it would vote at the meeting in accordance with Mr Chang's wishes.

[11] On 4 October 2013, without waiting for a response, Harneys sent Winbless what purported to be a notice of meeting of members to consider the resolutions set out in the requisition, to be held at the date, time and place there mentioned. This notice was signed by Silver Shadow as a director.

[12] On 7 October 2013 Sabals Law responded to both the letter and the notice, pointing out that it was for the board by resolution, rather than Silver Shadow as a director, to set the date and place of the meeting and that no meeting of directors had been convened for this purpose. There was no provision in the BCA, the letter went on, permitting a single director to issue a notice convening a members' meeting and Winbless intended on that account to treat the notice as invalid. After raising some criticisms of the form of the previously proffered instrument of transfer, Sabals Law restated Winbless' willingness to transfer the share to Silver Shadow, but only provided that Mr Chang could satisfy it that that would not result in a liability under United States tax legislation. It asked for confirmation, pending a properly convened meeting, but without giving any reasons beyond those previously advanced, that the United States Inland Revenue Service could conduct a tax audit in relation to Mr Chang's interest in the Company. Thus Winbless

had added further condition before it would consent to registration of a transfer to Silver Shadow or to any person other than Mr Chang.

[13] On 15 October 2013 Harney's replied, saying they did not agree that a board resolution was required to convene the meeting and repeating that the meeting would take place three days later, as previously notified. The request for assurance that Winbless would vote its share in accordance with Mr Chang's wishes at the meeting was repeated.

[14] Sabals Law replied on, I think, 16 October 2013.[5] They said that Winbless would not be attending the meeting, on the grounds that it had not been validly convened. The question about the manner in which the Winbless share was to be voted was not expressly addressed.

[15] On 18 October 2013 Silver Shadow purported to resolve that Winbless and Mrs Chang be removed from the Company's board.

[16] On 26 November 2013 Mr Chang and Silver Shadow commenced the present proceedings. They seek a declaration that the resolution of 18 October 2013 was effective to remove Winbless and Mrs Chang from the Company's board; in the alternative, they seek an order convening a meeting of the members of the Company under section 86(1) and an order that Winbless vote its share at the meeting in accordance with the directions of Mr Chang.

[17] The case was tried on 12 March 2014 on the pleadings and the affirmations and affidavits of Mr Chang and his brother and Ms Irene Chang and the material thereto exhibited. No oral evidence was called.

Was the resolution of 18 October 2013 validly passed and effective?

[18] Mr John Carrington QC, for Winbless,[6] submitted that a meeting of members convened otherwise than pursuant to a valid resolution of a company's board is (in the absence of some provision in a company's articles of association making alternative provision) a nullity. He relies upon section 82(1) of the BCA, which provides that the directors of a company or a person authorized by the company's memorandum or articles in that behalf may call a meeting of members. He also points to Article 27 of the Company's Articles of Association, which confers upon the directors the power to convene meetings of the Company.[7]

[5] the letter is actually dated 7 October

[6] in view of the impasse in control, the Company was not represented

[7] the same Article obliges the directors to convene a members' meeting upon receipt of a valid requisition

[19] Mr Carrington relies strongly upon the English authority of **In re State of Wyoming Syndicate.**[8] In that case Wright J had to deal with a creditor's petition for the compulsory winding up of the company. The petition was opposed on the grounds (1) that the company had already passed a resolution that it should be wound up voluntarily and (2) that the petitioning creditor was unable to show that he would be prejudiced by the continuation of the voluntary winding up. The resolution relied upon had been purportedly passed in consequence of a requisition delivered to the directors asking them to convene an extraordinary general meeting to consider a resolution that the company should be voluntarily wound up as insolvent. Unlike section 82(2) of the BCA, the provision of the English Companies Act 1900 governing the convening of general meetings on members' requisitions contained default provisions. If the directors did not convene a meeting to be held within 21 days of delivery of the requisition, the requisitionists (or a majority in value of them) could proceed themselves to convene a meeting in the same manner, as far as possible, as a meeting convened by the directors. Before the expiry of the 21 day period the company's secretary, on his own authority only, sent out notices of meeting. The meeting took place and was attended by the requisitionists and by a large number of other shareholders. The proposed resolution for voluntary winding up was passed by the required statutory majority and a liquidator was appointed. Six days later the creditor issued his petition.

[20] Wright J held that the secretary had had no power to convene the meeting, which, in the absence of ratification, was a nullity accordingly.

[21] The case is obviously different in certain respects from the present one. This is not a winding up case – a feature which strongly influenced Wright J's decision and inclined him not to treat the matter as one of mere irregularity. For all that, however, it seems to me that Mr Carrington is right. Only the directors of the Company[9] may convene meetings at which resolutions passed otherwise than unanimously will be capable of binding a company. That does not mean, as Mr Carrington appears to say in his written submissions,[10] that the board must be unanimous in convening the meeting, nor does it mean that it is only at meetings duly convened by the board that acts may be done which bind the company. For example, if all members of a company consent to a proposal, whether in a meeting (however convened – or even if occurring by accident) or otherwise, their consent will bind the company despite the fact that it was not given at a meeting regularly convened by the board, and Article 44 of the Company's Articles of Association provides for the Company to be bound by written resolutions subscribed to by the required majority, without the need for board involvement. But in my judgment it is not open to one out of a number of directors to convene a meeting of members on its

[8] [1901] 2 Ch 431
[9] or the Court
[10] paragraph 25

own initiative. There may be cases where errors in the convening of meetings can be treated as mere irregularities, capable of being put right without objection or even overlooked, but this cannot be such a case. The meeting was obviously convened as the result of a deliberate decision to bypass the board.

[22] I do not think that the position is affected by the fact that both directors had a statutory obligation to join in convening a meeting in response to the requisition. Section 82(2) itself recognizes that it is for 'the directors' to comply with the obligation and I do not think that a single director in a case where the board has other members who have not been consulted on the matter is competent to convene a meeting on his own. The regrettable absence from section 82(2) of any default provisions dealing with what is to happen on the failure or refusal on the part of a board to comply with a requisition, cannot permit the Court to step into the gap and supply *ad hoc* default provisions – such as reaching the conclusion that since each and every director had an obligation to comply, each board member who is in favour of such a course must be entitled to call a meeting in the absence of a resolution of the board to that effect. The result, if that were so, could be chaos.[11]

[23] In my judgment, therefore, the purported resolution of 18 October 2013 was ineffective to bind the Company.

Ought a meeting to be convened pursuant to section 86(1) BCA?

[24] Section 86(1)(a) of the BCA provides that if the Court is of the opinion that it is impracticable to call or conduct a meeting of a company's members in the manner specified in the BCA or the company's memorandum and articles of association, the Court may order a meeting of members to be held and conducted in such manner as the Court orders. Section 86(1)(b) confers upon the Court the same power and discretion if it is of the opinion that it is in the interests of the members of the company that a meeting of members be held. Mr Jeremy Child, who appeared, together with Ms Colleen Farrington, for the Claimants in this matter, relies upon both limbs of section 86(1).

[25] The purpose behind subsection 86(1)(a) is identical to that behind the corresponding section 371 of the UK Companies Act 1985 ('section 371'). It is designed to meet the case where there are difficulties in the mechanics of convening or conducting a meeting of members. The UK statute, however, contains no provision corresponding to subsection 86(1)(b) and unsurprisingly, therefore, I was taken to no authority on the meaning and effect of that subsection. One is therefore left with the language of the provision. In my judgment, subsection 86(1)(b), which does not depend upon difficulties in convening or conducting meetings, is intended to provide the Court with a general power to direct a meeting where it considers that the membership of a company as a

[11] see the argument of Mr Gore-Browne in Wyoming at p 434

body would benefit from the holding of a meeting. It is as unnecessary as it would be unwise to imagine factual circumstances where it might be appropriate to exercise the power. It is sufficient for present purposes to say that it can have no application to a case such as the present, where the Court can have no opinion whether a meeting for the purposes of removing Winbless as a director of the Company would be for the benefit of the Company's members as a whole. The Court does not take sides in boardroom disputes.

[26] That leaves section 86(1)(a), on which I was referred to UK authority.

[27] In **In re El Sombrero Ltd**[12] the appellant had acquired 90% of the issued shares of the company from their previous holder. The respondents held the other 10% and were the only directors of the company, which had never held a general meeting. It appears that the respondents were fearful that at any such meeting they would be removed as directors and had managed to prevent that happening by a combination of relying upon the fact that the quorum for a general meeting of the company was two and not turning up for meetings. The appellant asked for an order under the materially identical UK predecessor of section 371 that the Court direct the convening of a meeting of the company's members at which the quorum should be one. Wynn-Parry J first considered the meaning of the word 'impracticable.' He held, first, that 'impracticable' is not synonymous with 'impossible' and went on to say that there was no doubt that it was possible for the meeting to be convened and held. The question, he said, was whether as a practical matter the meeting could be conducted and he concluded that, given the attitude of the respondents, it could not. He therefore directed a meeting at which the quorum should be one. The judge dismissed an argument that by so directing he was removing an entitlement in the respondents to prevent a meeting from being conducted by use of the quorum provisions by saying that that was not an entitlement which the respondents enjoyed under the company's articles, but the result of the accidental distribution of the shareholdings.

[28] It is important for present purposes to appreciate why it was that in that case Wynn-Parry J did not consider that it was impracticable for a members' meeting to be convened, despite the fact that the only two members of the company's board were opposed to any such thing happening. The reason was that if the board refused to act in compliance with a requisition by a qualifying shareholder, the UK Companies Act 1948 gave the requisitionist the right to convene a valid meeting by himself. That was why the only difficulty in that case was over the conduct of any meeting. The position is different here, where the BCA does not give requisitionists the right to convene a meeting on the board's default. In the present case, a meeting validly convened could be conducted

[12] [1958] 1 Ch 900

with a quorum of one shareholder present without the need for any intervention by the Court. The difficulty, if there is a difficulty, is in the convening of any meeting.

[29] In **Ross v Telford**[13] the English Court of Appeal held that section 371 did not entitle the Court to give directions whose effect would be to disable the right of someone who had from the outset been and was intended to be an equal board member to block the passing of a directors' resolution to which she objected. The shares in the company in question ('ACo') had from the outset been held equally between a husband and a company of which he and his wife were equal shareholders ('BCo'). The quorum for shareholders' meetings of each of ACo and BCo was two. The board of each of ACo and BCo consisted of two persons – the husband and wife. The husband wished the board of ACo to pass a resolution ratifying proceedings which the husband had commenced in the name of ACo without the authority of any resolution of ACo's board. The wife objected to any such resolution being passed by the ACo board. In the light of the wife's opposition, the husband could not obtain his object without an alteration in the composition of the ACo board. He therefore sought an order under section 371 for the convening of a meeting of ACo with a quorum of one, thus sidestepping the wife's right to prevent any meeting of ACo being quorate by refusing, at BCo board level, to appoint a representative of BCo to attend the ACo meeting. The first instance judge did not grant that relief. Instead, he directed, without any resolution of BCo's board, that the husband's solicitor should be appointed to represent BCo at a meeting of ACo's members to be convened for the purpose of considering a resolution to appoint the solicitor as an additional director of ACo. The effect of the order itself was thus to destroy the wife's veto at BCo board level in order to enable her veto at ACo board level to be overridden.

[30] The English Court of Appeal held that section 371 could not be used so to arrange matters that a member without any previous ability to do so could defeat opposition to a decision at board level. What was ordered was not, in truth, the facilitating of a members' meeting, but an interference with the balance of power within the company structure.

Discussion

[31] As mentioned earlier, it appears that Mrs Chang senior ceased to be a director of the Company some time ago and, in that case, that the quorum for a meeting of directors of the Company is one. If that is correct, then Silver Shadow does not need an order of the Court to convene a members' meeting. When I put this to Counsel, neither embraced the suggestion, perhaps, in Mr Child's case, because of concerns that the Company's Register of Directors continues to show Mrs Chang senior as a member of its board. At

[13] [1997] BCC 945

all events, that was not how the case was argued and I shall therefore proceed on the footing that no members' meeting can be convened without either the consent of Winbless or an order under section 86(1)(a).

[32] Mr Carrington says that section 86(1)(a) is not in play in this case because there is no evidence that it is impracticable for a general meeting of the Company to be convened and no evidence that it would be impractical for it to be conducted. He is plainly right about the second point, since Silver Shadow has sufficient votes to form a quorum. As for the convening of such a meeting, Mr Carrington submits that in the absence of any evidence that any previous attempt to convene a meeting of the board for the purpose of considering the calling of a general meeting has been frustrated, there is no evidence that it would be impracticable to convene a meeting of members. He also submits, in reliance upon a dictum in **Ross v Telford**, that section 86(1) has nothing to do with meetings of a board.

[33] As to the first point, I do not accept that there is no evidence that Winbless would frustrate any attempt to procure a resolution of the Company's board convening a members meeting. It is on record as proclaiming that it will not attend board meetings because they are deadlocked and, thus, a waste of time. Mr Carrington says that that was said in relation to registration of share transfers, which he says is a different matter, but I accept Mr Child's submission that Winbless has evinced a settled intention, ever since the transfer was first sent for registration, to be as obstructive and uncooperative as it could manage to be, within the strict limits of the law, in frustrating Mr Chang's wish to take this company under the legal ownership of Silver Shadow. It is irrelevant that that intransigence was evinced in relation to the share transfer, rather than the composition of the Company's board. There is every reason to believe that Winbless would be no more co-operative in relation to his wish to remove it as a director than it has been in relation to the registration of the transfer.

[34] In my judgment, therefore, the convening of a members meeting in the present case is no less impracticable, in the sense explained by Wynn-Parry J, than was the conducting of a meeting in the case before him. Winbless *might* have a change of heart, as might have had the directors in the other case, but in each case their track record speaks (or spoke) to the contrary.

[35] Mr Carrington is right that the Court of Appeal in **Ross v Telford** approved a submission of counsel to the effect that section 371 has nothing to do with board meetings. That has to be read in the context in which that case was decided. Nourse LJ was simply saying that it was not the function of section 371 to engineer changes in company boardrooms by interfering with entrenched rights. He was not saying that section 371 can never be invoked if the object of the members' meeting in question is to change the constitution of a company's board. Indeed, that was the object of the meeting in **El Sombrero** itself.

[36] The convening of a meeting in the present case, by contrast, will not destroy entrenched rights or shift the balance of power in the Company at any level. It is clear that, until she became incapacitated, Mrs Chang senior had a casting vote at meetings of the Company's board. The fact that the board now happens to be deadlocked is the result of the unfortunate accident of her incapacity, not of any structure deliberately designed to ensure deadlock at board level, as was the case in **Ross v Telford**. Winbless never had an entrenched right to equal representation at board level.

[37] In any case, in the present context the question does not arise. Winbless is currently under a statutory obligation, imposed by section 82(2), to join in convening a meeting of the Company's members. It cannot escape from that obligation by saying (even if it were true) that the outcome of the meeting might be objectionable on some other ground. If that were so, it would have its remedy.

[38] In my judgment the necessary conditions for the making of such an order are satisfied and I consider that justice would be served by making it.

An injunction compelling Winbless to vote at Mr Chang's direction?

[39] The prayer for relief asks for an order directing Winbless to vote its shares in the Company in accordance with the directions of Mr Chang. There is no doubt that it is obliged to do that and the only question for me is whether it is just and convenient that it should be ordered to do so.

[40] The order is sought under section 86 and/or under the inherent jurisdiction of the Court. There is nothing in section 86 giving the Court the power to make any such order. The conduct of the meeting will be unaffected by the manner in which, if it attends, Winbless uses its voting power.

[41] The question, therefore is whether I should use my discretion under the inherent jurisdiction to require Winbless to vote in accordance with Mr Chang's instructions. Mr Carrington says that there is no justification for the making of such an order, because, he submits, Winbless has given no indication that it will not comply with its responsibility as trustee. I am afraid that I cannot agree with that. Winbless has refused to offer any comfort in response to direct questions asking whether at any meeting of the Company it would vote the share in accordance with Mr Chang's instructions. The given reason for declining to do so (that there has to date been no valid meeting in contemplation, making the question otiose) does not encourage. More importantly, quite apart from its obstinate refusal to cooperate with any step proposed by Mr Chang in relation to registration of the share which it holds on his behalf (see above, *passim*), Winbless has twice[14] gone on record as saying that it refuses to comply with Mr Chang's instructions unless he meets

[14] see paragraphs 9 and 12 above

conditions which it is not in Winbless' power to impose. These are clear breaches of trust on the part of Winbless. Given a party ready to record its determination to remain in breach of trust unless its illegitimate demands are met,[15] it seems to me that there is every reason to fear that it will refuse at any meeting convened under section 86 to vote the shares as directed by Mr Chang. In my judgment all of this more than justifies the grant of the injunction sought.

Conclusion

[42] I shall therefore make an order convening a meeting of the Company for the purpose of considering resolutions in the terms of the resolutions set out in the Written Request for Meeting, dated 25 September 2013, which accompanied Harney's letter of 26 September 2013 to Sabals Law. It will be for Silver Shadow to serve notices of the meeting, such notices to comply with and be subject to Articles 28 and 109-111 of the Company's Articles of Association and to be treated for all purposes as notices duly given by the Company by its directors. The meeting will be held at the offices of 2701 Admiralty Centre, Tower 1, 18 Harcourt Road, Hong Kong, SAR, or at such other place as may be considered by Silver Shadow to be convenient for representatives of the members to attend, on a specified business day not earlier than 14 days following the giving of the notices, to commence at a specified time between the hours of 10.00 am and 4.00 pm local time. Conduct of the meeting will be given to Silver Shadow (by its duly authorized representative), which shall transact its business as nearly as possible in accordance with the relevant provisions of the Articles of Association of the Company. Silver Shadow shall make and sign a true minute of the proceedings and place the same when made with the books and papers of the Company.

[43] For the reasons given above, I will also make an order that if Winbless attends and votes at the meeting, it must not vote its share otherwise than in accordance with the most recent instructions received by it from Mr Chang or his duly appointed representatives.

Commercial Court Judge
19 March 2014

[15] not only are they illegitimate, the second is incapable of being complied with in the absence of assistance from the United States IRS