

REPUBLIC OF CROATIA

Commercial Court in Zagreb

Zagreb, Trg Johna Fitzgerald Kennedy 11

**67. St-1987/23**

## SOLUTION

The Commercial Court in Zagreb, according to Judge Gordan Zubak, in pre-bankruptcy proceedings regarding the proposal of the debtor EKSID d.o.o., Zagreb, Fallerovo šetalište 16, OIB: 36114963935, for the purpose of opening pre-bankruptcy proceedings, August 28, 2023,

### Solution

- I. Pre-bankruptcy proceedings are opened against the debtor EKSID d.o.o., Zagreb, Fallerovo šetalište 16, OIB: 36114963935.
- II. Violeta Peljušić from Rijeka, Drage Gervaisa 48, OIB: 33914998677, is appointed as trustee.
- III. Creditors of the debtor are invited to report their claims to the competent unit of the Financial Agency on the prescribed form within 21 (twenty-one) days from the date of delivery of this decision.
- IV. The debtor and trustee are invited, within 30 (thirty) days from the date of delivery of the table of reported claims, to submit to the Financial Agency a written statement on each reported claim, whether they acknowledge or dispute it, with a mandatory indication of the amount for which the claim is disputed and the reason for the dispute, and on the prescribed form.
- V. The debtor's creditors are invited, within 15 (fifteen) days from the date of delivery of the statement on the reported claims of the debtor and the trustee, to dispute the reported claims that they consider non-existent, with a mandatory indication of the amount for which the claim is disputed and the reason for the dispute, and that on the prescribed form .
- VI. The debtor, the trustee and the creditors are warned that only statements about those claims of creditors that the creditors themselves have reported are legally relevant, because the deleted rule on pre-claims is contained in the provision of Art. 39 of the earlier Bankruptcy Act ("Official Gazette" No. 71/15, 104/17), and despite this, in Art. 43, paragraphs 1 and 2 of the Bankruptcy Act ("Official Gazette" no. 71/15, 104/17 and 36/22) prescribes that the table of reported claims that the Financial Agency is obliged to compile for each claim contains: 1. number of the reported claims according to the alphabetical order of the name of the creditor, 2. data for the identification of the creditor, 3. the amount of the reported claim, 4. the legal basis of the claim, 5. the subject on which there is a separate or exclusive right, 6. information on whether a claim report has been submitted, 7. the date of filing the claim, 8. information on whether the claim is specified in the opening proposal of the pre-bankruptcy procedure, 9. the amount of the claim specified in the proposal for the opening of the pre-bankruptcy procedure.

- VII. The Financial Agency is invited to publish on the website e-Notice board of the courts within three days: - from the date of expiry of the deadline for filing a claim, a table of reported claims together with claims reports and documents, - from the date of expiry of the deadline for the declaration of the debtor and the trustee, if he has been appointed on the reported claims, the statement on the reported claims, or the information that the statement has not been submitted, - from the date of expiry of the deadline for contesting claims, a table of contested claims in which all claims contested by the debtor, trustee or creditor will be listed.
- VIII. If the application of the claim, statement about the reported claims or contestation of the claim was received after the announcements from point VI. of the provisions of this decision, the Financial Agency is invited to draw up a supplement to the tables and together with the application of the claim, statement about the reported claims or disputing the claim and documents, publish it on the e-Notice board of the courts no later than the first day after receipt.
- IX. The Financial Agency is invited to submit to the court all received documentation in paper form within three days from the expiration of the deadline for disputing claims, and subsequently received no later than the first day after receipt.
- X. The debtor is invited to provide the creditors and the trustee with access to the documents from which the claims listed in the list of assets and liabilities arise.
- XI. The debtor's debtors are invited to fulfill their due obligations to the debtor without delay.
- XII. The creditors, the debtor and the trustee are invited to attend the hearing to examine the claims that will be held

**December 15, 2023 at 11:00 a.m.,**

in the premises of the Commercial Court in Zagreb, Zagreb, Trg John Fitzgerald Kennedyja 11, hall 200 (II floor).

- XIII. The decision on the opening of pre-bankruptcy proceedings will be entered in the court register of this court
- XIV. The entry of the opening of pre-bankruptcy proceedings against the debtor EKSID d.o.o., Zagreb, Fallerovo šetalište 16, OIB: 36114963935, in the land register is determined and the Municipal Court in Crikvenica, Land Registry Department Krk, is ordered to record the opening of pre-bankruptcy proceedings of this court business number St-1987/23 of August 28, 2023 at: - zk. st. no. 10690, registered office Vrbnik, ID no. 589, pasture.

#### Explanation

- 1. On August 21, 2023, the debtor submitted to this court a motion to open pre-bankruptcy proceedings based on the provisions of Art. 25, paragraph 1 of the Bankruptcy Act ("Narodne novine" no. 71/15, 104/17 and 36/22 hereinafter: SZ).
- 2. In accordance with the provisions of Art. 17, paragraphs 1 and 2, in connection with the provision of Art. 16, paragraph 1 of the SZ, the debtor submitted a list of the debtor's

assets and liabilities with the proposal. Upon inspection of the said list, it was established that the debtor has precisely defined claims against the debtors specified in the list, and that he owns the real estate, as well as the movables listed in the list of assets and liabilities.

3. The debtor is in accordance with the provisions of Art. 26 of the SZ, together with the proposal submitted financial statements in accordance with the Accounting Act that are not older than three months from the date of submission of the proposal for opening pre-bankruptcy proceedings, a statement on the number of employees on the last day of the month preceding the day of submission of the proposal.
4. It follows from the content of the proposal that the pre-bankruptcy reason has been realized in relation to the debtor, which the debtor proved by the delivery of the Financial Agency's confirmation of the blocking of the debtor's accounts and funds (sheet 51 of the file). Furthermore, the debtor also submitted a certificate from the Ministry of Finance - Tax Administration confirming that the submitted calculation of non-payment of wages was prepared in accordance with the regulations.
5. As a result of the above, the court, based on the provision of art. 33, paragraph 1, in connection with the provision of Art. 4 of the Civil Code, issued a decision on the opening of pre-bankruptcy proceedings (item I of the sentence of this decision).
6. Decision from point II. the sentence of the decision was adopted in accordance with the provision of art. 33, paragraph 2 of the OT. The selection of trustees was carried out using the method of random selection in accordance with the provisions of Art. 84, paragraph 1, in connection with the provision of Art. 23rd verse 3 of the NT.
7. Decisions from points of III. to V. and from IX. to XI. the rulings were adopted in accordance with the provisions of art. 34, paragraph 1 of the Civil Code, which prescribes the mandatory content of the decision on the opening of pre-bankruptcy proceedings.I. 23rd verse 3 of the NT.
8. Furthermore, the provisions of Art. 36, paragraph 1 of the Civil Code prescribes the mandatory content of the claim report and it is determined that the claim report is submitted on the prescribed form and that the documents from which the claim arises, i.e. with which it is proven, are attached to the claim report in a transcript.
9. Pursuant to the provisions of Art. 38, paragraph 1 of the Civil Code, separate creditors are obliged to inform the competent unit of the Financial Agency within the deadline for filing a claim about their separate rights, the legal basis of the separate right and the part of the debtor's property to which their separate right applies, and to make a statement whether they waive or do not waive the right to separate settlement, while according to the provisions of art. 38, paragraph 2 of the SZ, creditors are obliged to inform the competent unit of the Financial Agency within the deadline for filing a claim about their rights, the legal basis of the right of exclusion and the part of the debtor's property to which their right of exclusion applies. Separate and separate creditors are obliged to give a statement in the notification about their consent or withholding of consent to the postponement of the settlement of the case to which their separate right applies, i.e. the separation of the case to which their separate right applies in order to implement the restructuring plan (Art. 38, paragraph 3. NW). Notifications from Art. 38, paragraphs 1

and 2 of the Civil Code, are submitted on the form for reporting a creditor's claim in pre-bankruptcy proceedings.

10. Decisions from points VI. to VIII. the rulings were made in accordance with the provisions of art. 43, paragraphs 4 to 6 of the SZ, which prescribe the duties of the Financial Agency in pre-bankruptcy proceedings.
11. Decisions from point XIII. and XIV. the rulings were made in accordance with the provisions of Art. 34, paragraph 3 of the Civil Code, which stipulates that in the decision on the opening of pre-bankruptcy proceedings, the court shall order that the opening of pre-bankruptcy proceedings be entered in the register in which the debtor is entered and in the public books, registers, registers and registers in which the debtor is entered as holder someone's rights.
12. Despite the fact that Art. 43, paragraphs 1 and 2 of the Bankruptcy Act ("Official Gazette" no. 71/15, 104/17 and 36/22) stipulates that the table of reported claims that the Financial Agency is obliged to compile for each claim contains: 1. number of the reported claim according to the alphabetical order of the name of the creditor, 2. data for the identification of the creditor, 3. the amount of the reported claim, 4. the legal basis of the claim, 5. the subject on which there is a separate or exclusive right, 6. information on whether the claim was filed, 7. date of filing a claim, 8. information on whether the claim is stated in the proposal for opening pre-bankruptcy proceedings, 9. the amount of the claim stated in the proposal for opening pre-bankruptcy proceedings, it is noted that the provision of art. 39 of the SZ 2022 stipulates that creditors affected by the pre-bankruptcy procedure can pursue their claims against the debtor only in the pre-bankruptcy procedure, and this provision completely changed the provision of Art. 39 of the former Bankruptcy Act ("Narodne novine" no. 71/15, 104/17), which stipulated that if the creditor did not file a claim, and the claim was specified in the proposal for opening pre-bankruptcy proceedings, the claim specified in the proposal for opening pre-bankruptcy proceedings is considered with the reported claim (rule on pre-emption of claims) so that the debtor, trustee and creditors are warned that only statements about those creditor's claims that the creditors themselves have reported are legally relevant, because the rule on pre-emption of claims has been deleted.
13. In accordance with the provisions of Art. 34, paragraph 5 of the SZ, this decision will be submitted to the Financial Agency.

In Zagreb on August 28, 2023

Referee  
Gordan Zubak

Legal remedy:

Against this decision, the unsatisfied party may file an appeal with the High Commercial Court of the Republic of Croatia within 8 days from the delivery of the decision, and it shall be filed through this court in two (2) copies. Delivery is considered to have been

completed on the eighth day from the date of publication of this decision on the website of the e-bulletin board of the Commercial Court in Zagreb (Article 12, Paragraph 1 of the SZ).

DNA:

1. debtor.
2. commissioner
3. FINE
4. OS Crikvenica – zk division Krk
5. court register – electronic
6. e-bulletin board

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