Neutral Citation Number: [2023] EWHC 5 (Ch)

Case No: CR-2021-CDF-000038

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS IN WALES
CARDIFF DISTRICT REGISTRY
INSOLVENCY AND COMPANIES LIST (ChD)

In the matters of:
Greenfrost Limited
PMO Property Limited
and the Companies Act 2006

Cardiff Civil and Family Justice Centre
2 Park Street, Cardiff, CF11

Date: 6 January 2023

Before :

HIS HONOUR JUDGE JARMAN KC
Sitting as a judge of the High Court

- -

Between :

AMANDA ANN DAVIES	**Petitioner**
- and -	
(1) PATRICK MICHAEL O'KEEFFE	**Respondents**
(2) GREENFROST LIMITED	
(3) PMO PROPERTY LIMITED	

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- -

Mr Charlie Newington-Bridges (instructed by **Aaron and Partners Ltd**) for the **claimant**
Mr Gwydion Hughes (instructed by **Peter Llyn and Partners**) for the **first defendant**

Hearing dates: 13-15 December 2022

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Approved Judgment

This judgment was handed down remotely at 10.30am on Friday 6 January 2023 by circulation to the parties or their representatives by e-mail and by release to the National Archives..

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HIS HONOUR JUDGE JARMAN KC

HH JUDGE JARMAN KC:

Introduction

1. The petitioner, Ms Davies, and the first respondent, Mr O'Keeffe, were in a personal relationship with one another for over 20 years and have two children together. That relationship broke down in July 2019. During that time, they were also in business relationships together producing stone and concrete products, and also building houses. As part of that relationship, they were joint directors and equal shareholders of the two respondent companies. The first (Greenfrost, formally known as Foelfach Quarry Ltd)) owned the lease of a quarry at which aggregates and dust were produced, and the second (PMO) built houses. Each was carried on as a quasi-partnership. Unsurprisingly, as their personal relationship broke down, so too did their mutual trust and confidence in their business relationships. Ms Davies now petitions under section 944 of the Companies Act 2006 for her shares in those companies to be purchased by Mr O'Keeffe on the basis of that breakdown and on the basis that he has excluded her from the running of the companies and has misappropriated assets. He denies both of those allegations, but says that on the basis of the breakdown, Greenfrost should be put into voluntary liquidation. He accepts that he will buy Ms Davies' share in PMO at a fair price.

Background

2. The background is largely uncontroversial. The couple started with nothing, but through their hard work built up the businesses. Mr O'Keeffe focused on the manual work, and Ms Davies focussed on the administration. In the last few years the businesses have been run through eight companies. They were co-directors and equal shareholders of four of these. Each of them wholly owned and were sole directors of two of the other companies.

3. The main object of the businesses was to provide a living for the family. Perhaps unsurprisingly, they paid scant regard to the legal identities of the various companies or to the legal requirements in respect of the running of them, except when there was a liquidation. When the companies were trading, they were run without formal meetings or resolutions, and at times the assets or liabilities of one would be dealt with as that of another.

4. From 2013 there was increasing borrowing by the companies from various lenders to purchase land and machinery. Some of the borrowing was secured by personal guarantees given by Ms Davies and by Mr O'Keeffe. Greenfrost was incorporated in 2014 in order to acquire a lease of Foelfach Quarry, Carmarthen, and did so later that year for a term of 10 years. The trade of the quarry was carried on by another company, as its name suggests, Foelfach Quarried Stone Limited (Teifi Stone).

5. By the spring of 2017 various creditors of the couple's companies were pressing for payment to such an extent that they realised that the only way the businesses could survive would be to sell the lease of the quarry. They instructed agents to provide a valuation. In November 2017 several statutory demands were served on various of the companies but also upon Ms Davies and Mr O'Keeffe personally. They instructed a firm of solicitors in Swansea, Morgan LaRoche, to act for the companies and for each of them personally. Some payments were made and more time bought.

6. By the spring of 2018, potential purchasers of the quarry began to make approaches. Morgan LaRoche were instructed in the sale, which was eventually concluded in June 2018 to Sigmaroc Plc at a price of £1,991,900.00. The net proceeds were paid to Morgan LaRoche. Out of the proceeds, various creditors were paid. These included sums of over £600,000 to creditors of PMO, and a further £50,000 was transferred to that company. Over £530,000 was used to pay debts of Teifi Blocks Limited (Teifi Blocks), one of the companies owned and controlled by Mr O'Keeffe alone, and £29,000 odd to pay a claim against him alone. After various other repayments, and costs and expenses associated with the sale, the balance of £717,503 was paid into the account of Greenfrost on 27 June 2018.

7. On the same day £40,000 was transferred to Foelfach Quarried Stone Ltd and the next day £10,000 was transferred to Teifi Blocks by Mr O'Keeffe and £10,000 was withdrawn by Ms Davies. The next day Mr O'Keeffe then withdrew £70,000 which he says was used to pay other legal bills.

8. In early July a further £40,000 was paid to Teifi Blocks and a further £10,000 was withdrawn by Ms Davies. £70,000 was loaned to a third party, of which £60,000 was repaid the following month. Mr O'Keeffe made a payment of £30,000 to another individual and £100,000 to a company called Greenrain Ltd. Ms Davies withdrew £260,000 at the end of the month but repaid this a few days later.

9. In September 2018 there was a payment to PMO of £25,000 and a similar sum was withdrawn by Ms Davies. Mr O'Keeffe the same day as the latter transaction withdrew £180,000 leaving just over £3,000 in the account. In the previous three months there had been further smaller sums paid to or on behalf of Teifi Blocks.

10. In short, £116,000 was withdrawn by Ms Davies. She was entitled to the repayment of a directors loan, although that loan appears in the accounts of PMO. When she was cross-examined about this, she said she couldn't remember if any director's loan had been agreed. She said that after she had taken the first £41,000, Mr O'Keeffe had taken £630,000. She continued: "Maybe I should not have done it, but I would have come out penniless." It is clear that most of the remainder of the balance was paid to or for Mr O'Keeffe or his company Teifi Blocks.

11. By July 2019, the couple had no or little conversation with one another, although they remained living in the same house for another year. That property was the subject of proceedings between them under the Trusts of Land and Trustees Act 1996, which resulted in Mr O'Keeffe agreeing in July 2021 to pay £350,000 to Ms Davies for her interest. However, that sum has not been paid and is now in dispute.

12. There then followed a number of transactions, as summarised below, in respect of which there are issues as to the extent to which Ms Davies knew about or agreed to. I shall return to make findings on these issues.

13. In about November 2019, a charge in favour of Charterbank was secured against PMO. Ms Davies contacted the bank about this, and it was confirmed that the charge related to a personal loan to Mr O'Keeffe, in part at least, and he accepted that the loan was used to finish building one of the plots which belonged to him. In the event, the bank agreed to limit the charge to Mr O'Keeffe's share.

14. Mr O'Keeffe dealt with a company called BDG Group with a view to disposing of his share, and that of Ms Davies, in Greenfrost. This lead to Ms Davies bringing a claim against him and the transferee. Mr O'Keeffe agreed to restore her share and the transaction by which the share was purportedly sold was declared void by an order in that claim in October 2021. The present petition was filed in December 2021.

15. In the summer of 2022, Mr O'Keeffe secured a loan of just under £260,000 from County Asset Finance. Minutes of the board of PMO were compiled for the lender, in which it is stated that Ms Davies attended the meeting and agreed to the loan, something she disputes.

16. Mr O'Keeffe accepts that his company, Teifi Blocks, has used a large block making plant owned by PMO and situate on land owned by PMO, without payment.

Legal principles

17. There was no dispute before me about the relevant legal principles and these may be shortly stated. Section 994(1) of the 2006 Act provides:

> "A member of a company may apply to the court by petition for an order under this Part on the ground-
>
> (a) that the company's affairs are being or have been conducted in a member that is unfairly prejudicial to the interest of member generally or of some part of its members (including at least himself), or
>
> (b) that an actual or proposed act or omission of the company (including an act or omission on its behalf) is or would be so prejudicial."

18. The reference to "company's affairs" makes clear that the conduct in question must be by or on behalf of the company and not by the members (*Re Unisoft Group Ltd (No 3)* [1994] 1 BCLC 609). The conduct must be unfair, judged on an objective basis (*RA Noble & Sons Clothing Ltd* [1983] BCLC 272). Unfairness may consist in a breach of the provision of the company's articles or using them in a manner which equity would regard as contrary to good faith (*O'Neill v Phillips* [1999] 1 BCC 10). It is for the petitioner to prove unfairly prejudicial conduct, by reference to all of the facts (*Fowler v Gruber* [2010] 1 BCLC 210), including whether the conduct has affected the value of the shares. Breach of director's duties, failure to disclose a conflict of interest, or misuse of company assets may amount to such conduct (*Re Coroin Ltd (No 2)* EWCA Civ 781, *Estera Trust (Jersey) Ltd v Singh* [2018] EWHC 1715 (Ch), and *Ashdown v Griffiths* [2015] EWHC 3131 (Ch)).

19. In the case of quasi-partnerships the equitable considerations referred to above may include an association formed on the basis of a personal relationship of mutual confidence or an understanding that all the shareholders should participate in the conduct of the business (*Ebrahimi v Westbourne Galleries* [1973] AC 360). If one quasi partner so denigrates the activities of another as regards the latter's conduct of the companies affairs as to make their constructive continuation in the quasi

partnership unrealistic, that may well amount to unfairly prejudicial conduct (*Re Fi Call* [2015] EWHC 3269 (Ch)).

20. Even if a shareholder is not involved in the day to day management, if they are not informed of matters having a fundamental effect on the company that may amount to exclusion (*Whitelock v Henderson* [2009] BCC 314). Accordingly, stepping back from such management will not necessarily mean forfeiting expectation of any participation at all in management (*Re Foundry Miniatures Ltd* [2017] 2 BCLC 489). A breakdown in trust and confidence brought about by the respondent's conduct is unlikely to be a sufficient ground for such exclusion (Re *Via Servis Ltd* [2014] EWHC 3069).

21. Once such conduct has been shown, the court has a wide discretion to order appropriate relief, which often involves an order that the respondent should buy out the petitioner's shares. This should be on a valuation which is fair on the facts of the particular case (*Re London School of Electronics Ltd* [1986] Ch 211).

The witnesses

22. I now turn to the main factual issues between Ms Davies and Mr O'Keeffe. Only they gave oral evidence on these issues. On the whole, Ms Davies gave her evidence in a straightforward manner. She made appropriate concessions, such as how the couple conducted their business relationship up to the sale of the quarry, and that she had access to emails even after that, although she said that Mr O'Keeffe would sometimes change the password and she would have to ask him for the new one. She said that she did not access some emails, for example from BDG, despite saying earlier in cross examination that they were at this time watching each other "like hawks." Some of the emails were addressed to her or sent by her, as she accepts. In my judgment, it is likely that she did access more than she now recalls.

23. Mr O'Keeffe was less straightforward when giving his evidence. He gave details of meetings with BDG, although such meetings were not mentioned in his written evidence. He accepted that he communicated with BDG to buy back his shares and signed relevant documents, but said that he did not keep copies. He also accepted that he did not inform Ms Davies of this, despite the claim which she brought concerning her share.

24. In his pleadings, he said that the £100,000 paid to Greenrain Ltd out of the proceeds of sale of the quarry was by way of an introducer's fee and that he would give further particulars. When he was asked in cross-examination where these were, he replied that he did not know. He said that he instructed accountants and that he needed more information from Morgan LaRoche. No documents were disclosed on these matters, and he denied deliberately withholding disclosure. He also said that he had settled a claim by Greenrain Ltd for a further £150,000. In cross-examination he mentioned a Tomlin order in relation to such a settlement, but one has not been disclosed. When he was asked where a copy of the order was, he replied that the money had been paid, and that he paid £250,000 on behalf of Greenfrost to settle the claim. He accepted that he did not inform Ms Davies of this, and gave as the reason that they were not speaking. When he was asked why this could not have been by a solicitor's letter, he said that he did not know. Taking all of these matters into account, they make me

more cautious about accepting his evidence at face value than I am about accepting the evidence of Ms Davies.

Exclusion

25. Ms Davies' evidence was after the sale of the quarry, she told Mr O'Keeffe that she was worried about where the proceeds were going, and that how an outstanding tax bill was going to be repaid. She took the £260,000 out of the account with a view to paying the tax bill and to "make him sit up and think." She said that he accepted then that the proceeds should be split equally between them. She accepted that she wanted to buy a small holding at this time, but said that she returned this money a few days later after Mr O'Keeffe's assurance as to equality. However, she said he continued to withdraw the proceeds as before, so she took £75,000 and left the balance to pay tax.

26. She said that after 2019 there was no communication between them, and in particular no information from Mr O'Keeffe about the matters from that date onwards as summarised in paragraphs 10-16 above. She found out about some of the matters from other sources, for example the transfer of her share in Greenfrost, and the Charterbank loan.

27. Mr O'Keeffe denies the whole conversation about where the proceeds were going and the tax bill, but accepted that Ms Davies did tell him that she wanted him to come to his senses and she wanted to buy a small holding. He also accepts that she objected to the payment of £29,000 from the proceeds to pay a debt which she said was personal to him.

28. In his pleadings and witness statement he said that she was kept fully informed of all the above matters and "consented" to them. He initially maintained that in cross-examination. However, when it was put to him that the couple were not speaking at the time, he said that he would pass her in the hallway of their home and would have "some words." In respect of PMO, he added that he "would have said that we need a loan to finish the building plots" to which he received no reply. He added that he kept her informed "all the time." However, on being further pressed he said that "she was informed at the level she needed to be informed of." There was usually no reply. He accepted that at this time the communication between them was not the same as before.

29. In my judgment the lack of consistency in Mr O'Keeffe's statements on the issue of communication, together with the caution I have already indicated, is such that the recollection of Ms Davies is more likely to be accurate on this issue. Moreover, a scenario where he informed her of the need for loans whilst "passing in the hallway" seems unlikely. In my judgment, Mr O'Keeffe continued to make decisions, including fundamental decisions as set out above, in respect of Greenfrost and PMO without consulting or informing Ms Davies.

30. The reason he did so, in my judgment, is that after the breakdown of his personal relationship with Ms Davies, he focussed on his own interests. Up until then, as Ms Davies to her credit accepted in cross-examination, his position and that of the family were aligned to a substantial degree. His personal bankruptcy had the potential to impact severely upon the family. Once his personal relationship with Ms Davies broke down, that alignment shifted significantly.

31. In my judgment, this process is likely to have begun with the way he dealt with the proceeds of sale of the quarry, as set out above. He accepts that his relationship with Ms Davies had been strained for some time before the sale, although he said in cross-examination, that after the sale the relationship was "rekindled" for a short time. At the latest, when the relationship finally broke down in July 2019, it is clear that he was primarily looking after his own interests and that of his company, Teifi Blocks, without regard to that of Ms Davies or of Greenfrost, or of PMO. This is demonstrated by the way he dealt with the shares of Greenfrost, and the way he secured the Charterbank and Capital Finance loans against PMO even though such loans, in part at least, were to him personally.

32. It is also demonstrated by the way he went about compiling PMO board minutes for those lenders, indicating that a meeting had been held at which Ms Davies was present and agreed to the loan. When it was put to him in cross-examination that she was not present and did not agree, he replied "We lived at the same property." In my judgment that answer was a telling revelation as to how he thought he could conduct the affairs of PMO. He said he thought Ms Davies must have signed the loan documents, as the loans were advanced, although he had no direct knowledge of her doing so. She denies doing so, and in my judgment it is unlikely that she did.

Misuse of assets

33. However, the conduct goes beyond lack of information, and amounts, in some instances, to misuse of assets of Greenfrost and PMO.

34. This includes the proceeds of sale which were applied to Mr O'Keeffe or his company Teifi Blocks as set out above. It also includes the remaining £180,000 taken by him. In cross-examination he said that he thought this "went to Teifi Blocks." He said he was "safeguarding" this because of the monies withdrawn by Ms Davies. He added that the money was used to pay subcontractors' bills, and that is something which his solicitors had claimed on his behalf. He added that the documents were in the hands of the accountant and not disclosed because he "didn't realise" they were needed. That answer was unsatisfactory and I do not accept this money was spent on subcontractors. Moreover, his solicitors claimed that these payments were backdated to 2014, but Teifi Blocks was incorporated in 2017.

35. As for the £100,000 paid to Greenrain Ltd, despite the unsatisfactory way Mr O'Keeffe gave evidence about this, the payment of an introducer's fee for the sale of the quarry had a certain ring of truth to it, and I am prepared to accept that this money was paid as claimed. There was an issue as to whether this was a debt personal to Mr O'Keeffe, but as it related to the sale of the quarry, it is not justified to say that this was a misuse. However, that does not extend to the further £150,000 claimed. If there were a Tomlin order or other document evidencing this then it seems to me it would be a very simple matter to disclose this, and its absence makes me doubt that this further sum was paid as claimed.

36. In my judgment, the securing of the Charterbank and Capital Finance loans on PMO assets, insofar as they were to secure the personal borrowing of Mr O'Keeffe, also amounts to a misuse of those assets. He said in cross-examination that these loans

benefitted PMO, as it had a part interest in some of the building plots, in respect of which he had personally paid for connections of services.

Unfairly prejudicial conduct

37. Having made those findings of fact, I turn to consider whether any of those matters amount to the conduct of the affairs of Greenfrost or PMO in a manner which was unfairly prejudicial to the interest of Ms Davies within the meaning of section 944.

38. The sale of the quarry was in my judgment a fundamentally different event to how Ms Davies and Mr O'Keeffe had carried on their businesses before. It went beyond the payment of a debt of one of them or of one of the companies by another. It represented by far the most substantial asset of Greenfrost, the only other asset being a weighbridge, or of any of the companies. Nevertheless, as Ms Davies accepted in cross-examination, at this time both she and Mr O'Keeffe intended that the proceeds would be used to pay all debts. There were bailiffs at the door and Ms Davies accepted that at this time the bankruptcy of Mr O'Keeffe would have been difficult. She accepted, therefore, that she was encouraging Mr O'Keeffe to settle "our debts at the time." She was relieved because she thought the proceeds would pay off "all debts."

39. In terms of payment of debts by Morgan LaRoche, therefore, I am not satisfied that those amounted to conduct which was unfairly prejudicial to the interests of Ms Davies as a shareholder of Greenfrost and PMO, even where the debts were of other companies or Mr O'Keeffe.

40. How the balance was dealt with when remitted to the bank account of Greenfrost raises different questions. In my judgment it is likely that the most pressing debts had been paid by Morgan LaRoche. There were other debts arising afterwards, such as a shortfall in the repossession of a property known as Ty Coolock in the sum of £95,000. The lenders agreed eventually to accept £70,000. Another debt to the Bank of Wales was agreed at £55,000.

41. It is clear that in the weeks following this remittance both Mr O'Keeffe and Ms Davies were taking monies from the account. I have accepted her account that she was concerned about the tax due but also about her own position. I have also accepted that the couple had a conversation in August when Ms Davies voiced her concerns about the amounts being withdrawn by Mr O'Keeffe, in which he assured her that the monies would be held equally. It was on the basis of that assurance that she returned the £260,000. I also accept that thereafter he continued to withdraw sums for Tiefi Blocks. Mrs Davies also withdrew monies, and in my judgment, there appears to be no proper basis for doing so. As Mr Hughes submits, this should be taken into account when determining whether Mr O'Keeffe has conducted the affairs of the companies in a way that was unfairly prejudicial. However, I accept her evidence, at least in respect of the £25,000 withdrawn on the last three occasions, that these were withdrawn in response to the withdrawals by him. Moreover, her withdrawals were relatively minor when compared to his. She says, and I accept, that the amount left in the account was for tax.

42. However, the withdrawal then by Mr O'Keeffe of £180,000 almost cleared the bank account. I am not satisfied with his explanation of what happened to these monies,

and there still is no proper explanation. In those circumstances, I cannot be satisfied that these monies were used to pay debts or for any proper purpose of Greenfrost. In my judgment this amounts to a misuse of these monies and a failure to consult or inform Ms Davies about the way these monies were dealt with.

43. In my judgment, the subsequent sale of Ms Davies's share in Greenfrost by Mr O'Keeffe, the appointment of a third party in her stead as a director and the failure in his part to give any or any proper information about this to her, was clearly conduct relating to the affairs of Greenfrost which was unfairly prejudicial to her.

44. The Charterbank and Captial Assets loans secured on the assets of PMO insofar as they related to borrowings of Mr O'Keeffe or his company amounted to a misuse of those assets and his failure to consult or inform Ms Davies about them amounted to exclusion of her from these decisions. Mr O'Keeffe said that he personally had paid for the connection of services to some of the building plots owned by PMO and so it was fair for the loans to be secured as they were. He was not able to produce documentary confirming of this and I am not satisfied that he did. Even if he did, however, in my judgment this does not, on the scant information available, fully justify such security. All of this conduct was unfairly prejudicial to Ms Davies's interest in PMO, although I accept that in the case of Charterbank, this was subsequently rectified. The use of PMO's block making plant and land by Teifi Blocks without payment was also unfairly prejudicial in this way.

45. In my judgment, the petition is made out in the above respects as they concern the conduct of the affairs of both Greenfrost and PMO.

Relief

46. I turn next to the issue of relief. The instruction to a forensic accountant, Claire Hills, as a single joint expert, was to value the shares of each company at the date of the report unless the expert felt that another date would also be suitable. The expert valued Greenfrost at the next balance sheet date after the sale of the quarry, namely 28 February 2019. For PMO, the date was 14 February 2022, which is the date to which the expert had bank statements. She said that it was not possible to value the companies at the date of her report unless further information was supplied covering the interim period.

47. Ms Davies and Mr O'Keeffe were given an opportunity to put written questions to the expert, which the former did. The latter did not initially engage, and applied for relief from sanctions to be able to put his questions late, which I granted.

48. The expert concludes that at the date identified, the net assets of Greenfrost "might be" in the region of £1.757 million. It is clear from the report that the expert was working with limited information and that there was "much unknown." However, I am satisfied, for the reasons indicated above, that it was Mr O'Keeffe who was largely responsible for the limited nature of the information, and that it was largely in his hands to supply more.

49. Most of the current assets assessed at that date are made of sums paid to or on behalf of PMO, Teifi Blocks, and Mr O'Keeffe, which the expert classifies as loans. She makes clear that the value of Greenfrost is dependent upon the extent to which the

loans can be recovered. These are assets which neither he or Ms Davies are likely to have known Greenfrost had because of their tendency to run the businesses together. The expert has confirmed in replies the fact that Greenfrost has not traded since would not alter the valuation, which was made on the basis that it was not trading.

50. As for PMO, the expert in her report valued the shares at nil, mainly because Greenfrost is classified as a creditor because of PMO's loans repaid out of the proceeds of sale of the quarry. In replies to Ms Davies' questions, the expert confirms that if rent had been paid for the use of by Teifi Blocks for the block making machine and the land, then the range of the value for PMO would be £132,224 to £144, 298 depending on whether tax would be payable on rentals. She is not able to say whether it would be because she had not seen subsequent accounts. In the absence of such information I am not persuaded that the higher figure is appropriate. The lower figure would give a value of Ms Davies's share of £66,112.

51. Mr Hughes, on behalf of Mr O'Keeffe, realistically accepts that Greenfrost is in deadlock and submits that the appropriate approach is for a winding up order to made, and that is something which the expert says may determine the extent to which the loans are recovered. This is not pleaded. Apart from that however, I am not persuaded that this is the appropriate approach. Most of the current assets of the company are loans as set out above, in respect of which Mr O'Keeffe is in control. His failure properly to engage in the present proceedings in terms of disclosure or putting questions or further information to the expert when he should have, does not give confidence that he will co-operate in realising these assets in the event of liquidation. Moreover, in my judgment there is some uncertainty as to whether the liquidator would be put in funds to pursue any necessary proceedings to pursue these debts. To the extent that the loans are not recovered, then almost all of the benefit of them is likely to fall to Mr O'Keeffe or his company.

52. For similar reasons, the ordering of further accounts and inquiries in respect of Greenfrost is likely to lead to further delay and difficulties of engagement by Mr O'Keeffe.

53. I have come to the conclusion that the appropriate remedy in respect of Greenfrost is to order Mr O'Keeffe to buy out the share of Ms Davies. I accept Mr Hughes' point that adjustment has to be made to the expert's valuation for repayments of loans not recorded in the Morgan LaRoche repayments, as set out in paragraph 40 above. Although not debts of Greenfrost, in light of the acceptance by Ms Davies that she encouraged Mr O'Keeffe to pay off all debts, these should be treated in the same way as loans by Greenfrost. It seems to me that it follows that a total of £125,000 should be added to the debtors.

54. As to the £116,000 taken by Ms Davies, the expert originally was of the view that this was possibly a settlement of a director's loan and payment of dividends. Following questions on behalf of Mr O'Keeffe, however, the expert concluded that £41,000 might be by way of director's loan, but that the remaining £75,000 was not supported by any documentation. In my judgment this latter figure should also be added to the debtors.

55. Mr Hughes submits that two amounts included by the expert in the list of debtors should not be so included. She identifies in the bank statements of Teifi Blocks receipts totalling £211,803.35 from September 2018 to August 2019 from Foelfach Quarry Ltd (the former name of Greenfrost) and £169,815.32 from a company known as Foelfach Stone Ltd, formerly trading as Sigmaroc Trading Ltd, a subsidiary of Sigamaroc Plc. She said she could not ascertain whether the receipts from Greenfrost were intercompany transfers or payments for services.

56. When the quarry was sold, other agreements were entered into. These included the engagement of Mr O'Keeffe as a consultant for a salary of £40,000, an option whereby another subsidiary of Sigmaroc Plc, Sigmafin Ltd, could purchase the business of Teifi Blocks, and a "take or pay agreement" whereby Teifi Blocks agreed to purchase from Sigmafin Ltd 10,000 tonnes of dust at £10 per tonne and 10,000 tonnes of aggregate at £15 per tonne on a yearly basis for five years. Mr O'Keeffe guaranteed the performance of Teifi Blocks under the take or pay agreement. The agreement provided that any shortfall in supply would be paid for by Sigamfin Ltd at those rates. In March 2022 Sigmafin Ltd issued a claim against Teifi Blocks, and Mr O'Keeffe as guarantor, for nearly £750,000, on the basis that only 620 tonnes were taken in the first year instead of the 20,000 tonnes agreed.

57. The expert was not provided with a copy of the agreement to sell the quarry when she compiled her report. She questioned whether the income received by Teifi Blocks from Foelfach Stone Ltd was funds due to Greenfrost "possibly as part of the conditions of the sale of the quarry agreement." She said that without further information, she could not confirm what the income related to, and suggested it required further investigation. Despite that indication, these issues were not directly engaged in subsequent questioning. On behalf of Mr O'Keeffe, copies of the option agreement and take or pay agreement referred to above were sent to the expert, but the question put in relation to them was whether any value could be attributed to these agreements and credited to Teifi Blocks and/or Mr O'Keeffe, given that the sale price of the quarry might not have been achieved without these agreements. The expert saw the issue as one of ownership, and referred to the single joint valuation of various parcels of property. She concluded that there was no value to be attributed to the agreements, and that her original conclusion stood.

58. Nevertheless, it is clear that she treated both these figures as "Intercompany-Teifi Blocks Ltd" in the list of debtors in her estimated balance sheet of Greenfrost. Given that she could not confirm whether the receipts in Teifi Block were intercompany transfers or payment for services, such inclusion seems doubtful. Moreover, the possibility raised by her that the income received by Teifi Blocks from Foelfach Stone Ltd, might be part of the conditions of the sale of the quarry agreement, is not one which appears justified on the evidence. Although the further copy agreements and questions then supplied do not clarify what this income relates to, I have come to the conclusion that the classification of these two figures as intercompany transfers is not justified.

59. The net decrease in current assets, after adding the £200,000 referred to in paragraphs 52 and 53 above, is £181,618.67, which directly affects the valuation of the shares in Greenfrost.

60. As Mr Newington-Bridges submits, these matters could have been put to the expert but were not. However he submits in the alternative that the amounts are relatively modest and account can be taken of them in fixing the precise sum to be paid for Ms Davies' share. The underlying facts in relation to such matters did not appear to be challenged. I have to come to a conclusion as to what is a fair price to pay, and given the limited information which the expert was working with, and her consequent cautious approach to the valuation, in my judgment I should do the best I can on the evidence before me to arrive at a fair valuation.

Conclusion

61. The valuation of Ms Davies' share by the expert is £878,590, which when adjusted to take into account the adjustments referred to above, should be reduced by £90,809.33, giving a figure of £787,780.67. That is the figure which Mr O'Keeffe should pay for the share of Ms Davies in Greenfrost. The price which he should pay for her share in PMO is £66,112.

62. I am grateful to both counsel for their focused and helpful presentations and submissions. They helpfully indicated that any consequential matters which cannot be agreed can be dealt with on written submissions. A draft order, agreed as far as possible, together with any such submissions, should be filed within 14 days of this judgment being handed down.