

**MALAGA COMMERCIAL COURT NUMBER 1 /1 BIS**

Ciudad de la Justicia c/Fiscal Luis Portero García s/n

Tel: 951939040 Fax: 951939140

NIG: 2906742M20090001332

**Proceedings: Opening Section 947/01.2009 Department: JV**

Concerning:

Relating to : AIFOS ARQUITECTURA Y PROMOCIONES INMOBILIARIAS S.A.

Legal representative at Court: Mr PABLO TORRES OJEDA

Lawyer: Mr/Ms:

In Malaga, on 5 June 2014

I, the Court Clerk, issue this DOCUMENT in order to place on record that on 8/05/2014 the Official Receiver has filed the definitive report on the inventory of assets and rights and the definitive list of creditors, which have been made available in the Court Office.

I hereby attest to the above.

**RULING 749/14**

**MR ANTONIO FUENTES BUJALANCE**

In Malaga, on 5 June 2014

**FACTUAL BACKGROUND**

**ONE.** In these insolvency proceedings, the Official Receiver has filed the report, together with the inventory of the debtor's assets and rights and the list of creditors.

The filing of the report has been notified to the parties and announced in edicts posted on the Court's noticeboard informing that objections to the inventory and list of creditors may be filed within ten days of the last publication of the edict which took place on .....

During such period, objections have been filed and once resolved, the Official Receiver has filed the definitive report, the definitive inventory of assets and rights and the definitive list of creditors, which have been made available in the Court Office.

**TWO.** In the aforementioned insolvency proceedings, the debtor has neither requested liquidation nor presented an advance proposal for arrangement within the period for presenting communications.

### **LEGAL BASES**

**ONE.** Article 111.1 of the Spanish Insolvency Law (LC) provides that when the insolvent party has not requested liquidation and an advance proposal for arrangement has not been approved or upheld, the Judge, within fifteen days of the expiry of the period for contesting the inventory and list of creditors, when no objections have been filed, or, if objections have been filed, within fifteen days of the date on which the definitive texts of such documents are made available in the Court Office, shall issue a ruling bringing the common phase of the insolvency proceedings to an end and opening the phase for making an arrangement, ordering the formation of Section five.

**TWO.** In the case in hand, the above requirements are met insofar as the insolvent party has not requested liquidation and no advance proposal for arrangement has been filed or upheld, therefore, as stated in the provision, the common phase of the insolvency proceeding should be declared as having concluded and the phase for making an arrangement opened, forming Section five.

**THREE.** Section 2 of Article 111 also provides that the same ruling shall order the convening of a meeting of creditors pursuant to the provisions of Article 23 LC, i.e. advertised in the same manner as the declaration of insolvency, fixing the date, time and place of the meeting.

Likewise, the provision establishes the period that should lapse between the convening of the meeting and the date of holding the meeting, which is different according to whether proposals for arrangement have been filed or not; in the second case, the period is longer in order to be able to file and process the proposals prior to the holding of the meeting.

In these insolvency proceedings, no proposal has been filed, as stated in the Background section, therefore, the date for the meeting is fixed according to this circumstance.

### **RULING**

**ONE.-** The common phase of these insolvency proceedings relating to the insolvent company, AIFOS ARQUITECTURA Y PROMOCIONES INMOBILIARIAS, S.A. is declared as having concluded.

**TWO.** The phase for making an arrangement proposal is opened. The heading of such proposal shall be the evidence of this ruling.

**THREE.** The rulings shall be passed to the Court Clerk in order to fix the date for the Meeting of Creditors.

**FOUR.** The debtor or creditors whose debts exceed, jointly or individually, one fifth of the total amount of liabilities resulting from the definitive list, shall be able to file arrangement proposals up to forty days prior to the date set for the holding of the Meeting.

**FIVE.** The creditors who so wish shall be able to join the arrangement proposal/s in the terms envisaged in Article 115.3 LC.

Creditors who join the arrangement proposal shall be considered as present in the Meeting for quorum purposes and their adherence shall count as a favourable vote for the purpose of computing the result of the voting unless they attend the Meeting of Creditors or the revocation of their adherence is stated in a ruling prior to the holding of the meeting.

**SIX.** The insolvent party, the Official Receiver and the condoned parties shall be notified of this ruling.

**SEVEN.** The holding of the Meeting shall be announced by means of an edict posted on the Court's noticeboard.

**AN APPEAL** may be lodged against this ruling, which SHALL BE CONSIDERED AS AN APPEAL AGAINST RESOLUTIONS RELATING TO THE OPENING OF THE PHASE FOR MAKING AN ARRANGEMENT, RESOLUTIONS APPROVING THE OPENING OF THE LIQUIDATION PHASE AND RESOLUTIONS APPROVING THE ADVANCE PROPOSAL FOR ARRANGEMENT, by virtue of the current wording of Article 197.4 LC; a writ of appeal shall be lodged with this Court within a period of **TWENTY BUSINESS DAYS** as from the date following the notification. The appellant shall set out, in the writ of appeal, the allegations on which the objection is based and indicate the resolution appealed against and the decisions contested (Articles 458.1 and 2 of the Spanish Code of Civil Procedure).

In order to allow the appeal, a deposit of 50 euros shall be paid into this Court's account No. 2218, indicating under "Observations" on the payment document that the payment relates to an appeal, followed by the code 02, pursuant to the provisions of Additional Provision Fifteen of the Organic Law of the Judiciary 6/1985, except in the cases of exclusion contained in the same (Public Prosecutor, State, Autonomous Communities, Local Entities and autonomous bodies dependent on all of them) or beneficiaries of free legal aid.

I attest to the above, and being in agreement, I affix my signature thereto.

**THE MAGISTRATE-JUDGE**

**THE COURT CLERK**