IN THE HIGH COURT OF JUSTICE
BUSINESS & PROPERTY COURTS
OF ENGLAND AND WALES
BUSINESS LIST (ChD)

BL-2020-001343

BETWEEN:

(1) LONDON CAPITAL & FINANCE PLC (IN ADMINISTRATION)
(2) FINBARR O'CONNELL, ADAM STEPHENS, HENRY SHINNERS, COLIN HARDMAN AND GEOFFREY ROWLEY (JOINT ADMINISTRATORS OF LONDON CAPITAL & FINANCE PLC (IN ADMINISTRATION))
(3) LONDON OIL & GAS LIMITED (IN ADMINISTRATION)
(4) FINBARR O'CONNELL, ADAM STEPHENS, COLIN HARDMAN AND LANE BEDNASH (JOINT ADMINISTRATORS OF LONDON OIL & GAS LIMITED (IN ADMINISTRATION))

Claimants

- and -

(1) MICHAEL ANDREW THOMSON
(2) SIMON HUME-KENDALL
~~(3) ELTEN BARKER~~
(4) SPENCER GOLDING
(5) PAUL CARELESS
(6) SURGE FINANCIAL LIMITED
(7) JOHN RUSSELL-MURPHY
(8) ROBERT SEDGWICK
(9) GROSVENOR PARK INTELLIGENT INVESTMENTS LIMITED
(10) HELEN HUME-KENDALL

Defendants

Transcript of proceedings made to the court on

Day 3 - Wednesday, 21 February 2024

The claimants are represented by Mr Stephen Robins KC, Mr Andrew Shaw & Mr Philip Judd

Michael Andrew Thompson (D1) appears in person

Simon Hume-Kendall (D2) & Helen Hume-Kendall (D10) are represented by Mr Warwick KC & Mr Russell

Elten Barker (D3) settled and is not appearing

Spencer Golding (D4) is debarred from defending the claim

Paul Careless (D5) and Surge Financial Limited (D6) are represented by Mr Ledgister & Mr Curry

Russell-Murphy (D7) and Grosvenor Park Intelligence Investments Limited (D9) appear in person

Robert Sedgwick (D8) appears in person

Housekeeping

MR ROBINS: My Lord, three points of housekeeping. The first, Mr and Mrs Hume-Kendall's application has been resolved by agreement. The solicitors have had very productive communications and have reached agreement in principle. Crowell & Moring are drafting a minute of order to reflect that agreement, which is going to be provided to my instructing solicitors and, if all goes to plan, it will then be lodged for your Lordship's approval.

Secondly, the open justice application from Mr Cloake. I understand that Mr Cloake is not pursuing his application at this point in respect of witness statements. He is content to receive those as and when they are deployed in evidence. For our part, we are happy for him to be provided with everything that he sought on that basis.

We have already given him our skeleton argument -- opening written submissions, I should probably call it. I don't know if the other parties have provided theirs. But, for our part, we don't have any objection. Equally, we don't have any objection to him being provided with daily transcripts and then with the further witness statements as and when they are deployed.

I understand he is in court. I don't know if he wishes to address your Lordship or if any of the other parties want to say anything on that?

MR JUSTICE MILES: Does anyone want to say anything?

MR WARWICK: My Lord, Mr and Mrs Hume-Kendall make no objection to that application, taking comfort in the indication given about witness statements in particular, which would align with the scheme of the rules.

MR JUSTICE MILES: Anyone else?

MR LEDGISTER: No, thank you, my Lord.

MR JUSTICE MILES: Is Mr Cloake here? Hello, Mr Cloake. Are you happy with that course?

MR CLOAKE: Yes, my Lord.

MR JUSTICE MILES: Thank you.

MR ROBINS: My Lord, thirdly, Mr Slade's application. Your Lordship required us yesterday to put in our evidence by 4 o'clock today. My Lord, with the best will in the world, it is not going to be possible to have that ready by 4.30 today and we will need until 10.30 tomorrow morning.

Given that the hearing of that application won't be until Monday, I would hope that.

MS DWARKA: That would be acceptable to your Lordship.

MR JUSTICE MILES: I will see whether there is any objection to that.

MS DWARKA: My Lord, can I take instructions?

MR JUSTICE MILES: We will come back to that.

MR ROBINS: I'm grateful.

Opening submissions by **MR ROBINS** (continued)

My Lord asked two questions yesterday which I wasn't able to answer with any degree of confidence and said I would go away and check. The first relates to the nature of the rights that the Telos investors thought they would be getting when they provided their deposits of £6.4 million in total to Telos, which, as, my Lord knows, was intended to acquire the Lakeview site but which actually lost its deposit and wasn't able to proceed.

Mr Shaw has checked that. I don't think we need to go to the documents, but it was a combination of what was described as "whole ownership" and "fractional ownership". Whole ownership is where you buy off plan a leasehold interest in a lodge that hasn't yet been built; fractional ownership is where you have a right to occupy a particular unit, say, for example, one of the apartments in the hotel building, for a number of weeks per year, a bit like a timeshare arrangement. The second point your Lordship asked was whether the Telos investors who provided money became creditors of Lakeview Country Club Limited. Your Lordship's understanding, based on the documents we were looking at, is that they didn't, and I said that that was my understanding as well. We have checked that, and that's quite right. Although, in the draft letter that we saw Mr Thomson circulating by email, he said, "LCCL are proposing to purchase from you the deposit you made in Telos at 33 per cent of its value and make you a creditor of LCCL". In fact, the agreement provided for the arrangement to operate differently. The Telos investors were to assign to LCCL their rights against Telos, which my Lord saw was anticipated to go into liquidation. LCCL would pay monies from the sale of villas to the trustees and the trustees would then distribute those monies to the Telos investors. We looked at a draft. It is probably helpful to look at a signed version, which is at <MDR00094601>. My Lord will see at the top Bruce and Mavis Keeble, who are the Telos investors in this instance. The trustees were Mr Ruscoe, Mr Hume-Kendall and Mr Sayers and a Mr Kendall. As I say, we haven't been able to find out anything about him. I don't know if he's a relation of Mr Hume-Kendall.

But this is a signed version. Clause 1 provides the assignment of the Telos investors' rights against Telos to LCCL. Clause 2 provides for LCCL to pay to the trustees certain proceeds of sale, if we can look at that on the next page, please. So number 1 is the assignment. Number 2 is agreement between Lakeview and the trustees to provide -- Lakeview Country Club as a party, yes. It is covenanting with the trustees to provide certain sums to them. The trustees, in clause 3, agree to hold the money on trust. And clause 4, the creditor will be entitled to the benefits set out in schedule 1, which are, in this instance, the initial Telos investment of £47,000. There is no enhancement payment. This individual hasn't lent anything further. And so the creditor's entitlement is set out at the bottom of the page, which is the fraction of the initial investment. It should be, I think, 33 per cent.

Before we rose for the day yesterday, we were looking at the GVA valuation which proceeded on the basis of an incorrect number of owned lodges. It stated that Lakeview Country Club Limited owned 24 lodges, including lodges which we have established had not been acquired at that time and, in fact, some lodges which were never acquired by Lakeview Country Club Limited or any of the companies associated with the first to fourth defendants.

There are three more valuation-type documents to look at, although it is probably unwise to dignify some of them with the term "valuation". They are all prepared by a Mr Spacey, who was associated with a company called Porters Intrinsic. If we could begin, please, by looking at <MDR00068566>.

This is a draft valuation. My Lord will see it is "Porters Intrinsic Valuations" at the top. It is a report and valuation in respect of the lodges.

Mr Spacey's name appears at the bottom. On page 5, my Lord will see at the bottom it's said under "Accommodation" that the lodge estate comprises 62 units, 17 three-bedroom and 45 two-bedroom, which are owned by the company. Well, that's wrong. As the table we showed your Lordship established, they don't own this many lodges at the time of this report. This is 13 December 2016. Although they ultimately end up owning 60 lodges, many of those are not acquired until various points in the first half of 2017, the subsequent year. So, it's based on an inflated number of lodges. Page 10, at the bottom, contains some suggested comparables. Principally, other sites, where it is said, for example, in Retallack, I think it is pronounced, not really sure, I think that is in Cornwall, there is a three-bedroom lodge for sale at £250,000. There is also some information, at the bottom of the page, about some recent sales at the Lakeview site. It's said that lot number 9 sold on 30 July 2016 for £82,500. Lodge number 62 sold on 22 December 2015 for £110,000. And it is said that number 18 was on the market for £155,000.

Then, on page 11, Mr Spacey sets out his suggested capital values for the lodges. He suggests £175,000 for a three-bed and £135,000 for a two-bed. If you multiply those figures by the 17 three-beds and 45 two-beds that he has mentioned earlier, you get a grand total of just above £9 million for the lodges.

It is obviously a very high valuation. We saw what he said about comparables at the Lakeview site. It appears from that that he wasn't told about the numerous other recent, open-market transactions involving lodges at Lakeview.

If we could go back to the bottom of page 10, please. For example, he doesn't mention that there was an exchange of contracts in respect of lodge 1 on 25 July 2016 at the sum of £85,000. He doesn't seem to have been told that the sale of lodge 12 completed on 23 August 2016 at the sum of £82,500. He doesn't seem to have been told that there was an exchange of contracts in respect of lodge 42, on 28 June 2016, in the sum of £90,000.

We have got these documents relating to those transactions in disclosure. Perhaps we could take a quick look at some of them. <MDR00050958>. My Lord can see this is a contract for the sale of lodge 1. It was exchanged on 25 July 2016. The price is on page 3. In the definitions, towards the bottom, it's £85,000. Then <MDR00055202>. This is the completion statement in respect of lodge 12 as at 31 August 2016. The purchase price is £82,500.

At <MDR00046904> we can see that contracts have been exchanged for the sale of lodge 42. The price is at the bottom of page 3. That's £90,000, right at the bottom. While we are here, we might as well look at <MDR00055827>, which is an email. We can see who is involved in the chain: Mr Barker, Mr Sedgwick and Mr Hume-Kendall. Mr Sedgwick says, on 30 August -- and we can see from the subject towards the top it's relating to lodge 47:

"Can you please let me know if I can exchange contracts on this purchase. The price is £94,000, which is payable by three instalments ... The only change is that there is an interest rate of 9.25 per cent payable if we are late with any payment."

Mr Barker says, copying in Mr Hume-Kendall: "Yes, please exchange on this basis."

So, at a time when there had been quite a lot of sales of lodges, recent comparables, at the Lakeview site in the range of £85,000 to £94,000, it is, to put it at its lowest, very surprising that Mr Spacey doesn't seem to have been told about any of them and that he's, instead, looking at comparables on other sites involving much higher numbers.

One can only assume that, if he had been told about the recent transactions that were in progress or had been completed in respect of the Lakeview lodges, he would have come up with a far lower price. If, for example, he had used more realistic numbers of, say, £85,000 for a two-bed and perhaps £110,000 for a three-bed, then he'd have come to something in the region of £5.5 million, as opposed to £9 million. The relevance of all of this, of course, is that someone in the position of Mr Thomson or Mr Hume-Kendall would have known, looking at this report, that the lodge values given in it were extremely high because none of the recent transactions at Lakeview had even begun to reach those sorts of levels.

My Lord saw in the table yesterday the highest price ever achieved in respect of a lodge that was reacquired was £134,000. One can only assume that that was a three-bed.

Those are the numbers in the draft report, and we can see the draft report was circulated on 16 December. That's <MDR00068562>. Mr Spacey's assistant, Ms Cooke, sends it to Mr Hume-Kendall, at the bottom of the page, and he forwards it to Mr Barker, Mr Ingham, Mr Thomson, Mr Golding and Mr Redman. That's the draft, as he says: "Dear All, herewith are the draft reports on the valuation ..."

The final version of the report is at <D1-0003193>. This is the final version. If we could look, please, at page 11, my Lord will see that the lodge valuation figures have been increased. It was 175 for a three-bed and 135 for a two-bed. It is now 180 for a three-bed and 140 for a two-bed. So, presumably, there's been some discussion and Mr Spacey has been persuaded somehow to increase his values.

The impact on the total is that it now comes out at £9.36 million for the lodges as opposed to £9 million for the lodges. It's an increase by about £310,000. There are also separate valuations from Mr Spacey for the central amenity block, the manor house and the development site. The document we are looking at relates solely to the lodges.

It is a slightly unusual approach that he's taken because, whereas GVA and Savills recognised that this is a single block of land that operates as a single business that has to be valued as a single unit, Mr Spacey has valued each item on an individual basis, as if they could be sold separately, which doesn't make a huge amount of sense, when you think about it. The central amenity block, for example, is an integral part of the site, and it wouldn't really make sense to talk about selling it separately.

The figures that he's come up with in respect of those are £3 million for the central amenity block and £1.1 million for the manor house. I don't think we need to look at those valuations. It is, however, worth looking at what he says about the development site, which is another separate valuation report at <D1-0003194>. This is the development site, the site on which there was scope to build some additional lodges. My Lord will recall the figures in the GVA reports and the Savills reports in respect of those. If we look at page 8, what Mr Spacey suggests is, about two-thirds of the way down the page, 36 lodge sites at £30,000 per plot. That gives you the sum of £1.08 million. As regards the hotel site, he says it would not be available to build a 105-bedroom hotel on this site. He adds the hope value for 30 lodges at £15,000 per plot, that is £450,000. So, he takes the £1.08 million, he adds the £450,000 and he gets to a total of £1.53 million. It is obviously apparent from that that the £1.08 million is part of the £1.53 million. We are not looking at two separate figures here of £1.08 million and £1.53 million. He's taken the £1.08 million, he's added the £450,000 and got to the grand total of £1.53 million.

I mention that because we saw a number of times already Mr Thomson's security valuation spreadsheet. If we could go back to that, please, it's <MDR00077856>. In rows 11 and 12, Mr Thomson has added the £1.08 million as well as adding the £1.53 million. So, he's inflated the numbers by £1.08 million by acting as if it's a separate item and not actually part of the £1.53 million.

So, that's the first Spacey valuation. The second and third are not really valuations, as such; they are letters. But they are used to justify continued advances from LCF and they depart even more from reality.

The first is at <MDR00138648>. It is a letter to Global Resort Properties dated 1 December 2017. On page 2 of the letter, he says he's reappraised his figures from 2016 as follows, and he gives: "1. Enhanced value attributable to the existing lodges following a refurbishment as specified £17 million.

"2. Total value of the proposed 113 lodge plots at £50,000 per plot -- £5.6 million.

"3. Value of the refurbished manor house £1.5 million.

"4. Value of the land and amenity block with the benefit of consent for the proposals for further facilities £3 million."

The first thing that obviously strikes you is that he was previously valuing the development site on the basis of 36 lodges at £30,000 per plot and another 30 at £15,000 per plot. That was 66 plots in total. That somehow increased to 113 plots. Rather than being 30,000 and 15,000 respectively, it's now 50,000 per plot. That's not explained.

At the bottom of that extract, just above "Summary", it says:

"Accordingly, the valuations of the 69 existing lodges ..."

Well, hang on a minute, the maximum they ever owned was 60, but:

"... the valuations of the 69 existing lodges, ie 7x2 bedrooms at £200,000 and 62x3 bedrooms at £250,000 is reduced to £13.5 million and the development value for the 113 new lodge plots reduced to £4.5 million."

There's not only the error in respect of the number of owned lodges, they only ever owned 60, at most; there is also a bit of a problem with the configuration, because, as my Lord knows, there are only 18 three-bed lodges on site, not 62. We just looked at Mr Thomson's security spreadsheet for 18 lodges, all the GVA reports refer to 18 three-bed lodges, the Savills report is 18 three-bed lodges. What the Prime administrator sold was 18 three-bed lodges. That's all that's ever existed on site. So he's inflated the numbers by reducing the number of two-beds and increasing the number of three-beds to more than three times the number of three-beds that actually exist.

But the values he's attributing to the lodges are also getting further away from reality because, as I said, the highest we have ever seen is £134,000, which is presumably for a three-bed, but now it's being said £250,000 for a three-bed. Of course, anyone with any knowledge not only of the Lakeview site, but also of the previous valuations, including GVA and Savills, would have known that this was complete nonsense. But it gets worse because there is another letter from John Spacey at <MDR_POST_00000153>.

MR JUSTICE MILES: This talks about the refurbishment of the existing lodges, and it seems to be -- it is unclear from -- I'm just looking at the wording, whether he's saying that that actually happened or whether that's an assumption.

MR ROBINS: Sorry, can we look at the whole letter, please? Let's look at the whole thing. He says he had a meeting with Simon Hume-Kendall.

MR JUSTICE MILES: It talks about, on the first page, the proposals include refurbishment and the refurbishment includes building new things, like a swimming pool, conference facilities, spa, retail unit, et cetera. Quite a lot of -- and then things like a ski slope.

MR ROBINS: Mr Shaw has just pointed out at the top of page 2, it does seem to be --

MR JUSTICE MILES: <MDR00138648>. It says "following a refurbishment" --

MR ROBINS: At the top of <MDR00138648>, page 2: "In consideration of these proposals and on the basis that the local planning authority is likely to be sympathetic to the development of this site ..." So, it seems to be anticipating future works.

MR JUSTICE MILES: It says, at the top of the second page: "... I have reappraised my valuations from last year and on the assumption that the development proceeds in its entirety ..."

Then, when he comes to 1, it says this is the enhanced value following a refurbishment. So, I don't know, I mean, no doubt this will have to be explored, but it looks as though this is a -- he is talking about this on the assumption that this refurbishment process has taken place.

MR ROBINS: That may be right. We certainly saw that in the GVA valuation with the £12.4 million. That was on the special assumption that the business plan in respect of building the hotel and another 36 lodges was completed.

MR JUSTICE MILES: That's a slightly different point. That's talking about new stuff being built. I'm just looking at the wording. I am doing no more than that at the moment. But this seems, on the face of it, to be saying that the new values he's giving are all on the assumption that refurbishment has taken place.

MR ROBINS: Yes. I think that's also confirmed by the "Summary" paragraph, because he says:

"Following the grant of an appropriate planning consent to enable the development to proceed and the refurbishment of the existing lodges, I consider that the following values can be attributable ..." Which does seem to be looking forward to something that hasn't happened yet.

MR JUSTICE MILES: But that's something that, no doubt, will have to be explored.

MR ROBINS: Yes. There is also, as I say, another letter from Mr Spacey at <MDR_POST_00000153>. Perhaps we could look at the whole letter, please. This is dated 7 June 2018. It is to Terry Mitchell of Prime Resort Development. He refers, in the third paragraph, to "the company's proposals to project Waterside as a destination resort with the provision of new facilities, including a spa within the manor house complex, conference facilities, fine dining restaurants, a wedding venue, upgrading of the amenity block and provision of further central amenities. Improvements to the infrastructure and general landscaping." He says:

"In addition to refurbishing the existing lodges that are owned by the company both internally and externally, further new lodges are envisaged in separate zones with the Lakeside development, the Village Green development and the Hillside and Hilltop developments. "As stated earlier, 113 lodges are proposed on four sites comprising 10X2 bedroom units, 70X3 bedroom, 33x4 bedroom with unrestricted occupancy to replace the existing planning consent for 105 bed hotel and 36 lodges which I am advised that the Local Authority will consider sympathetically.

"I understand that the proposals for an artificial ski slope has been shelved but an activities hub will centre around a climbing wall, tennis courts and multi-use games areas."

He says:

"The manor house refurbishment has now been completed to an extremely high standard." So, that has happened:

"Spa accommodation is proposed and the venue is already attracting short-term lettings to the 10 suite accommodation.

"I have reconsidered the site following my recent visit ...

"I understand that proposals are in hand for a further swimming pool and that the gymnasium ..." He says:

"I have updated my appraisal on the following basis --

"1. I understand that currently 64 lodges are owned by the company ..."

Well, as we know, they only owned 60 at most: "... and the refurbishment programme is ongoing." This is June 2018:

"Further, I am advised that it is proposed that the lodges are sold on long leases, probably at a ground rent of around £1,000 per unit RPI linked with service charge.

"...

"2. Manor house has now been completed, insofar as the internal accommodation is concerned, to an extremely high standard and is already commanding premium rates ...

"3. I have considered the land for the building of the new lodges which accommodate a further 113 units and subject to planning have taken a plot value of £105,000 as an average between the 2, 3 and 4 bedrooms proposed ..."

Then he talks about viewing the site when further progress been achieved.

There is breakdown, on page 3, where he says "Existing 64 owned lodges", well, it is 60. As to the configuration, he says seven two-bed and 57 three-bed. There are only 18 three-bed. Previously, he said 62. That was wrong. 57 is also wrong. But, as to the numbers, whereas, just six months previously, he was saying 200 for a two-bed and 250 for a three-bed, it is now 240 for a two-bed and 275 for a three-bed. That's more than double the highest price ever achieved in respect of a lodge on this site.

For the manor house, he says £1.5 million. The central amenity block, central administration and land with lakes is £3 million. For the building land, he said 113 units at 105,000 and that comes in at 11.8 million.

Again, it is ultimately the same point, that anyone with knowledge of the Lakeview site would have known that this was not a valuation of the site in its present condition, not least because there weren't 57 three-bed units and they didn't own 64 lodges. At most, they only ever owned 60.

It may be that it is another attempt to gaze into the future as to what it might ultimately be worth if a lot of money is spent on developing it. Who knows? But it is certainly not a present valuation. It is also clear that these are not proper Red Book valuations, and no honest commercial lender would ever rely on letters like these as being valuations of assets provided for security.

So, those are all the valuations in respect of Lakeview. The next topic is the setting up of SAFE, which is the company that later became LCF. As to the name of this company, it is probably helpful to begin by looking at <A1/5>, page 70. This is from the schedule, schedule 1 to the neutral statement of uncontested facts in respect of the first claimant, company number 29 in that schedule on page 70. My Lord can see the date of incorporation was 12 July 2012 and the name of the company on incorporation was South Eastern Counties Finance Limited. My Lord saw that Sustinere Group Plc had a very similar name at a very similar time. There were a number of companies that shared that sort of name. Its name was changed to Sales Aid Finance (England) Limited on 21 September 2012. But then, on 28 January 2013, its name was changed back to South Eastern Counties Finance Limited. Then, a short time after that, on 18 February 2013, its name was changed back to Sales Aid Finance (England) Limited, which continued to be its name until 1 July 2015, when its name was changed to London Capital & Finance Limited. It converted to a Plc on 11 November 2015. Just down the page, my Lord can see that the directors on incorporation were Michael Peacock, Paul Sayers and Mr Hume-Kendall. Mr Peacock was also the company secretary. They all resigned on 15 August 2013, and so, we can see from what we saw above that they resigned at a time when it was already known as Sales Aid Finance (England) Limited. Mr Thomson became a director on the same date, 15 August 2013.

If we could look at the next page, please, we will see the shareholders. From the annual return lodged on 6 January 2014, Mr Thomson was recorded as being the owner of the entire share capital in the company, 1,000 ordinary shares. We know that he held those shares on trust for Mr Golding.

If we could look, please, at <MDR00014315>, we see an email from Mr Sedgwick to Mr Golding and Mr Thomson, with the subject "Golding-Thomson Trust Deed" and an attachment "Golding-Thomson Trust Deed.doc": "Please see draft Trust Deed in respect of all shares held by Andy for Spencer."

<MDR00014316> is the attachment. It is a draft trust deed confirming that Mr Thomson holds some shares on trust for Spencer Jon Golding, who is defined as the beneficial owner.

The shares themselves are, I think, on the next page, in the middle of the page, "Details of shares". It is 71,250 ordinary shares at £1 each in International Resorts Group Plc and 1,000 ordinary shares, £1 each, in Sales Aid Finance (England) Limited which my Lord has seen is the entire issued share capital of the company.

While we are on this -- I mention it now for reasons that will become relevant later -- the number of shares in International Resorts Group Limited is 71.25 per cent of the entire issued share capital, as part of what comes to be referred to as the old ratio. But, for present purposes, I'm focusing on the fact that Mr Thomson holds the entire issued share capital in SAFE on trust for Mr Golding, and we see another document relating to this at <EB0000535>, which is an email from Mr Sedgwick to Mr Golding, copying Mr Barker. It is dated 3 February 2015, with the subject "Golding-Thomson Trust Deed 2":

"This is the trust deed under which Andy holds his various shareholdings. It may need updating for his current address and for the current shareholdings but you will note that under the provisions of clause 3 Andy appoints you or if you are unable to act any of the other beneficiaries to act in his name. If we were to update this with the correct details then we could add in Elten as an additional attorney. But you can rest assured that if you were to die or be incapable of acting [then] Sophie Lewis or Anna could step in and act as your attorney."

Mr Golding, at this point, is still the beneficiary of a trust with shares which are registered in the name of Mr Thomson. It is therefore necessary to explain at this juncture why Mr Thomson is holding shares on trust for Mr Golding.

That is perhaps most easily explained by the document at <MDR00226310>. This is the form of disqualification undertaking under the Company Directors Disqualification Act, given by Mr Golding on 4 April 2011, disqualifying him from acting as a director of a company for eight years. That obviously, in the usual terms, prohibited him from in any way, whether directly or indirectly, being concerned or taking part in the promotion, formation or management of a company without the permission of the court, and he said that he understood, if he acted in contravention, he could be prosecuted for a criminal offence and be personally responsible for all the relevant debts of the company. So, he understood it was a serious matter.

The Schedule of Unfit Conduct is on the second page. He says that he doesn't dispute the following matters: he was a director of a company called Clydesdale Enterprises Limited, which went into liquidation 7 April 2009, with assets of nil and liabilities of almost £45,000. There was a deficiency to creditors, therefore, of almost £45,000, the share capital of £100 making little impact on the total deficiency.

The matters of unfitness are then set out at the bottom of the page. He failed to notify the company who provided Clydesdale Enterprises Limited with a payment card processing facility with details of the change of business of Clydesdale from an MOT centre to a seller of timeshares. He says he was aware that the merchant account facility would not have been extended to Clydesdale for the sale of timeshares if the merchant account provider had been correctly notified of the change of business. As a result, in the period from 27 August 2008 to 14 October 2008, the merchant account provider was exposed to unexpected risks in relation to the timeshare business, which ultimately resulted in a loss to the merchant account provider of some £57,813.

He also failed to ensure that Clydesdale maintained and/or preserved adequate accounting records, failed to deliver up such records to the liquidators, as a consequence of which it has not been possible to establish the following, between 8 August 2008 and 28 November 2008, (a) the purpose of cheque payments totalling £58,445 and to whom they were paid; (b) the purpose of payments totalling £111,253, £21,608, and £21,608 to three specific persons; (c) whether any liability to HMRC in respect of pay as you earn and/or value added tax arose in respect of the timeshare business; or (d) whether the statement of affairs reflects the true assets and liabilities.

So, reading between the lines, he's got hold of some money, no-one knows where it's gone, and that's part of the grounds on which he ultimately agrees to be disqualified and to not act in the management, et cetera, of the company on pain of imprisonment.

But we do know that Mr Golding continued to act as a director of various companies, including Lakeview Country Club Limited and SAFE, ultimately LCF, but he hid his involvement behind others. As my Lord has seen, Mr Thomson held shares on trust for him so that Mr Golding's name wouldn't appear at Companies House. Mr Barker also held shares on trust for Mr Golding, for example, <EB0139143>. This is a declaration of trust by which Mr Barker held the shares in Clydesdale Property Developments Limited -- the company that received a lot of the money from the Sanctuary investors' additional deposit -- on trust for Mr Golding and his brother, Ryan Golding, as the joint owners of the company. So, he sought to conceal his legal ownership, or, sorry, his legal ownership of shares by having trustee arrangements, but he also sought to conceal his beneficial ownership in other documents. That's why we see rather strange things, like the document at <MDR00010397>, where Mr Barker emails Mr Sedgwick, copied to Mr Hume-Kendall, to say:

"Robert, I would like Buss Murton to hold for me in trust my 75 per cent shareholding in Lakeview Country Club Limited. I can drop into the office any time this week to sign the relevant paperwork."

Everybody agrees that Mr Golding was the beneficial owner of 75 per cent of Lakeview Country Club Limited. It seems that documents like this were intended to hide even his beneficial ownership. Not only would there be a trustee, but there would be a nominee beneficial owner.

We see that again, for example, at <MDR00010565>, just two days later, where Mr Sedgwick informs Mr Thomson and Mr Hume-Kendall that Buss Murton (Nominees) holds the only share in LCCL on trust for Michael Andrew Thomson as to 75 per cent and Helen Charlotte Hume-Kendall as to 25 per cent. Everybody agrees that Mr Thomson was not the 75 per cent beneficial owner of Lakeview Country Club Limited. His pleaded position -- it is set out in his evidence -- and also Mr Golding's pleaded position, is that there was a subtrust in respect of that, initially for the entire 75 per cent and, ultimately, for a smaller proportion, to conceal Mr Golding's beneficial ownership. To explain the fact that he did continue to be involved in various companies, he was said to be a consultant, so that there was something on file in case any trouble ever arose. We have, for example, <MDR00014756>, which is a consultancy contract between Lakeview Country Club Limited and Spencer Golding. In summary, he's said to be a consultant in respect of fractional sales and tourism and property acquisition and sales, and it mentions a fee of £12,000 a month. There is clearly a lot of sensitivity around this topic, and presumably that's driven by Mr Golding's knowledge that he's signed an undertaking on pain of imprisonment. But you see odd documents like the one at <MDR00014818>, which is a draft acknowledgement to be signed by Mr Hume-Kendall. It is drafted for him by Mr Sedgwick, and it says:

"I, Simon Patrick Hume-Kendall of Hook Place ... hereby acknowledge and confirm that I have at all relevant times known that:

"1. Since the formation of Lakeview Country Club Limited ... the shares held by Michael Andrew Thomson in the company were held as to all but 5 per cent upon trust for Spencer Jon Golding and his family members. "2. Spencer Jon Golding is subject to a Bankruptcy Restriction Order which prevents him from acting as a director of a limited company and for that reason despite his majority holding in the company the directors [have] taken all decisions with regard to the management of the Company without regard to Spencer Jon Golding."

We don't know if that was ever signed, no-one has disclosed a signed copy, but the fact it exists at all demonstrates that there was an awareness of Mr Golding's disqualification and a lot of sensitivity around that topic. That seems to explain why sometimes, even in internal documents, there are references to Mr Barker or Mr Thomson in place of Mr Golding. We will see this, for example, when they move to the new ratios. They move away from the 71.25:23.75:5 for Mr Golding, Mr Hume-Kendall and Mr Thomson, and they move to new ratios of 45:45:5:5 for Mr Golding, Mr Hume-Kendall, Mr Thomson and Mr Barker.

Often when those new ratios are written down, it's said to be 45 for Mr Barker, 45 for Mr Hume-Kendall, 5 for Mr Barker and 5 for Mr Thomson. In other words, Mr Barker appears twice.

But everybody agrees that Mr Barker wasn't entitled to 45 per cent under the new ratios, he was entitled to 5 per cent, the same as Mr Thomson. The 45 was for Mr Golding. We see that subsequently in all the payments after they change to the new ratios. Mr Golding gets 45 per cent of the money from LCF. But it is the pleaded position of Mr Thomson, Mr Barker, Mr Hume-Kendall and Mr Golding that Spencer and Simon became equal parties and the smaller players, on 5 per cent each, were Mr Thomson and Mr Barker. But, as I say, the sensitivity meant that Mr Barker's name was often used almost as a -- I suppose as a place holder for Mr Golding's name. One can see that, for example, at <MDR00017070>. It is a diagram prepared by Mr Sedgwick sent to Mr Thomson and Mr Hume-Kendall by email. It shows that the London group, TLG, is owned by four individuals, and they are Simon Hume-Kendall, Elten Barker, Andy Thomson and Elten Barker. You might think, "Well, hang on, that's only three people, why is Mr Barker referred to twice?", and that's because the first reference to Mr Barker is code for Mr Golding.

We can see it again in the Golding/SHK agreement drafted by Mr Sedgwick, which we will look at in more detail later. I'm only going to this point for this narrow reason. It is at <MDR00016481>. It is clause 5, at the bottom of page 1:

"The shares in LTDG shall be held as to 45 per cent by Simon and 45 per cent by Elten."

That's Elten in inverted commas. Then, over the page, at paragraph 6:

"Elten and Andy Thomson shall each be entitled to a 5 per cent holding in LTDG ..."

That's Elten without inverted commas, that is actually Elten as Elten. So, in clause 5, "Elten" means Spencer, in clause 6, "Elten" means Elten. As surprising as it is, that's common ground and it is, of course, proved in spades by the funds flow subsequently when the money from LCF is divvied up in the ratios 45:45:5:5. 45 for Spencer, 45 for Simon, 5 for Elten and 5 for Andy.

So, it is a curiosity, but it does need to be explained at the outset and borne in mind. Before dealing with the loan notes issued by SAFE in 2013, we should touch briefly on the LUKI bond and the role of SAFE in respect of the LUKI bond. LUKI is Lakeview UK Investments. In summary, having acquired the Lakeview site, Mr Hume-Kendall, Mr Golding and Mr Thomson decide to issue a retail bond to raise money to implement the development plan.

They work with a company called Hypa, H-Y-P-A, to launch a bond to raise monies for that purpose. We see, at <D2D10-00005364> that an individual called Simon Welsh is involved, he is an employee of Hypa Management. This is an email that Mr Hume-Kendall is forwarding to Mr Golding, at the top of the page. But in an email from Mr Welsh to -- sorry, other way around, from Mr Hume-Kendall to Mr Welsh, Mr Hume-Kendall summarises the position in respect of the Lakeview site. He says:

"We currently own the site already outright including:-

"- The mansion ...

"- 8 lodges.

"- 90 acres of land including a 9-hole golf course ...

"- 6 acres of land with planning permission to construct 36 new ... lodges and a 101-bedroom aparthotel."

Other documents we have seen say 105, but I'm not sure anything turns on it. He mentions the central block. He refers to the timeshare leasehold owned lodges, which are, as he says, leasehold owned on peppercorn rents. And the 36 lodges owned on long leases, those are the 999-year leases with the £200 per annum rent.

He says that funds of £20 million plus fees will be used for the purpose of purchasing up to 40 leasehold and timeshare lodges, which are mainly under option. He says the estimated cost per unit will be £75,000, so they need £3 million for that.

He says they need £4 million for the construction of 36 new lodges, £9 million for the construction of the hotel, £3 million for an increase of the central facilities building. The total construction costs are, therefore, £20 million.

That's what the LUKI bond is intended to achieve. It is meant to raise the money for the development of the site.

We can see the final information memorandum at <MDR00014250>. This was a project that was worked on by Mr Thomson and Mr Hume-Kendall. Mr Thomson mentions it in his witness statement. He says it was the first time he had worked on a bond issuing and that it was a steep learning curve for him. He essentially worked out how a bond issuing worked, he learned on the job. We can see on page 1 that it is an offering of 11 per cent five-year bonds. The advisor and manager in the bottom left-hand corner is Sales Aid Finance (England) Limited and the advisor and distributor on the bottom right is Hypa Management LLP.

Then, at the bottom of page 17, we can see the description of the purpose of the bond issue. It says: "Lakeview Country Club Limited is therefore looking to borrow up to £17 million, which is anticipated to be drawn down over a 2-year fundraising period. These funds will be utilised in the following manner and in this order ..."

The first £7 million is to build the 36 new lodges. Then the following £9 million is to construct the hotel. And with fees of approximately £1 million on architects, et cetera, this is how the £17 million will be disbursed.

The facts relating to the LUKI bond are set out in another document, <MDR00006349>, which is the advisory and management agreement between LUKI and SAFE, dated 29 November 2013. If we could look at the recitals, which I imagine will be on page 2:

"(A) The company is to issue up to £17 million of bonds ...

"(B) The company has issued an offering memorandum ...

"(C) ... interest is to accrue on the bonds ... "(D) The company intends to generate the monies necessary to:

"(a) pay bond interest ...

"(b) redeem the principal amount of the bonds ... "by lending the proceeds ... to Lakeview Country Club Limited ... whose business is the development of the Lakeview Country Club in Cornwall ..." So LUKI is the issuer. It is going to issue the bonds. But then it is going to lend the money to LCCL: "(E) Pursuant to the terms of the loan agreement, all monies advanced by the company to [Lakeview Country Club] are to be paid into a designated account ... "(F) The offering memorandum envisages that LCC will use the monies advanced ... to develop the club ..." Then if we could see the next page, please: "(G) When lodges and rooms ... are sold, 70 per cent of the proceeds are to be paid into an escrow account ...

"(H) The company [which is LUKI] requires the services of the advisor and manager [which is SAFE] to provide advisory and management services, as more fully set out in this agreement."

So SAFE has a formal role in respect of the LUKI bond issue.

We can see that role in mechanical terms at <MDR00007786>. This is a draw-down request from SAFE to LUKI, signed by Mr Thomson. It is dated 29 November 2013. He refers to the loan agreement between LUKI and LCCL, by which the proceeds of the bond issue are to be lent to LCCL, and he says: "For the purposes of clause 3.1 of the loan agreement, we hereby direct that SRD [which is I believe the escrow agent] should advance the sum of £69,200 to UKPALS by way of a loan pursuant to the loan agreement." These draw-down requests were also accompanied by valuation certificates, for example, <MDR00007787>, which it was SAFE's responsibility to sign to confirm that the loan remained within the terms of the loan agreement. So, it's signed by Mr Thomson for and on behalf of SAFE, dated 2 December 2013, it is an advisor and manager certificate from SAFE. It says: "This is the advisor and manager certificate required to be given by SAFE pursuant to clause 3 of Part A to schedule 1 of the loan agreement ..." Then, in the final paragraph:

"SAFE, as the advisor and manager, hereby certifies that the current market value of the secured assets [essentially, the Lakeview site] plus the monies held in the escrow account is not less than £4 million." So that was the first role of SAFE. It was an administrative role in respect of the LUKI bond issue. Mr Thomson had to request the drawdowns, he had to certify the asset value. He was also, of course, as he explains in his witness statement, working for Lakeview Country Club Limited at this time and chiefly responsible for the implementation of the plans to raise monies and develop the site. So, one might have thought there was a conflict of interest, but it's not really material for present purposes.

What is material, for present purposes, is that the LUKI bond was not successful, and this is something my Lord may have seen in the witness statements. It raised only a fraction of the proposed £17 million. I think Mr Hume-Kendall talks about this, Mr Thomson talks about it as well. By mid-2015, it had raised about £3.9 million of the proposed £17 million. By mid-2016, it had raised £5.1 million.

The problem seemed to be that members of the public to whom financial advisors sought to sell this bond were not very keen to make loans to develop the Lakeview site. It was not a particularly attractive proposition. So, it fell short of expectations. They weren't able to raise the amount of money that they had hoped to raise.

I mention that just before we rise for the shorthand writer's break. It is a point that crops up again later because, ultimately, all of the land at the Lakeview site, with the exception of what's known as the development site, is transferred to another company, Waterside Villages Plc:

The reason LCCL retains the development site is because it continues to have these liabilities to LUKI in the sum of, by mid 2016, about £5.1 million. Under the terms of the loan agreement, LUKI is entitled to security in respect of those advances. So, LCCL retains the development site and the liability to LUKI, but all the other land on site is transferred to Waterside Villages.

Of course, that ultimately becomes a bit of a problem when Mr Spacey's first valuation arrives on 13 December 2016 and he says the valuation site is worth £1.53 million. It is apparent, at that point, the LUKI loan is very significantly undersecured. It is a liability in excess of £5 million secured over a site which Mr Spacey says is worth £1.53 million. That's another reason, of course, why it's particularly odd to see the development site appearing not once, but twice, in Mr Thomson's security valuation spreadsheet. He counts the £1.08 million and the £1.53 million, notwithstanding that the £1.08 is actually part of the £1.53. But he also does so in circumstances where the entirety of that development plot is charged to LUKI, which is undersecured in respect of the loan. But we will see all of that in more detail later. That's, I think, as much as I need to say about the LUKI bond. The principal relevance of it is probably in the fact that, as Mr Thomson explains in his evidence, it was his first experience of a bond issue and really where he learnt how it could be done.

MR JUSTICE MILES: When was the transfer to Waterside Villages Plc of the other land?

MR ROBINS: In the summer of 2015, contemporaneous with the Lakeview SPA, as it is described, by which the registered shareholders of Lakeview, Mr Thomson and Mrs Hume-Kendall, sold the shares to London Trading. It was part of what was described as the group reorganisation. We will see some documents relating to that next week.

MR JUSTICE MILES: I'm just thinking, for the purposes of the various valuations, as I recall, all of the valuations treat all of the land as being part of the subject of a valuation --

MR ROBINS: Yes.

MR JUSTICE MILES: -- including the GVA ones.

MR ROBINS: Yes.

MR JUSTICE MILES: But you're saying that, from summer 2015, the development land was effectively -- well, in fact, from earlier than that, going right back to the time of this loan from LUKI, is this right, that land was secured in favour of LUKI?

MR ROBINS: LUKI originally had security over the whole of the site. It was persuaded to accept reduced security to facilitate the transfer --

MR JUSTICE MILES: So that happened when the transfer took place?

MR ROBINS: Yes. Again, we will see a document from Hypa Management, I think it is, that sheds some light on this.

We will look at all of it in context. The reason for looking at it at this juncture is as background to what happens with SAFE and, ultimately, LCF.

MR JUSTICE MILES: All right. We will take a five-minute break.

(11.46 am)

(A short break)

(11.51 am)

MR ROBINS: My Lord, the first point to mention is on housekeeping. I am told that 10.30 has been agreed for our evidence on Mr Slade's application. We were just looking at the LUKI bond. My Lord, Mr Thomson and Mr Hume-Kendall were quick to take what they learned from the bond issue process and put it into effect in another way.

My Lord saw earlier that Mr Hume-Kendall resigned as a director of the company that was then known as SAFE on 15 August 2013, and his pleaded position verified by the statement of truth is that, after that date, he had no involvement whatsoever in respect of SAFE, or indeed LCF as it became, other than as a director of various companies which borrowed money from it, which of course makes it rather surprising to see, two days before he resigned, that he's planning a new business venture for SAFE as an issuer of bonds or loan notes. This is <D7D9-0000433>.

It is an email that Mr Hume-Kendall has sent in draft to Mr Golding, but it is actually addressed to Mr Russell-Murphy. At the top of the page, we see Mr Hume-Kendall forwarding it to Mr Russell-Murphy. He says:

"Dear John.

"Good to see you yesterday and we will ask Andrew to prepare a loan agreement when he returns and in the meantime, we would be grateful if you could just acknowledge that you are borrowing £100,000 for 3 months and will repay it in full on 31st December." I don't know if we know much about that loan, but we did obviously see the One Monday ledger recording that £100,000 of the additional deposits from the Sanctuary investors were paid to Mr Russell-Murphy as a loan. Maybe it is a reference to that. He says: "Re our mutual business we thought yesterday was most productive and Andy Thomson is preparing a draft document for you for Sales Aid Finance (England) Limited (SAFE) which will be with you by the end of the month. "This model is expected to raise at least £3 million over the next 12 months and if you are able to achieve the £3 million you will receive a 5 per cent share (or pro rata if you raise less) of the existing two sites we own in the UK and Dominican Republic. These are assessed by major independent professional firms to be worth c $200 million following development producing $10 million estimated share value to you even if we do not achieve an initial public offering which would hopefully be at least double this amount. "This shareholding would be subject to your assisting us with advice and ideas on our other fundraisings during this period especially on the major timeshare bond in which we hope you can play an important part.

"We hope this is in line with what you understood and hope it gets you excited."

So, two days before he resigns as a director, he's planning some new fundraising and we know Mr Thomson is preparing a draft document for Sales Aid Finance. Mr Russell-Murphy responds at <D2D10-00005735>. In the middle of the page:

"Dear Simon.

"Many thanks for your email outlining our discussions, I look forward to receiving a formal contract from your solicitor [that's in respect of the loan] and the investment offering from Andy. "In the meantime, I acknowledge that I am borrowing £100,000 which will need to be repaid by the end of the year."

At the top of the page, Mr Hume-Kendall forwards that to Mr Golding, asking, "What do you want me to do?", which, again, is another illustration of the way in which Mr Hume-Kendall did Mr Golding's bidding. The booklet that was being prepared by Mr Thomson is at <MDR00013635>. It says at the top:

"The content of this document has not been approved by an authorised person within the meaning of the Financial Services and Markets Act." We see it is an information booklet dated 16 August 2013 for an 8.5 per cent per annum secured bond due December 2013 and the words "Corporate Adviser" and "Authorised distributers" appear at the bottom, although it seems that those roles haven't yet been filled because no names appear.

On the next page, it says:

"This information booklet relates to Sales Aid Finance (England) Limited fully secured 8.5 per cent bond due 30 August 2013 ...

"The bonds have not been and will not be registered under the United States Securities Act of 1933 ..." It seems this is the sort of language that Mr Thomson has picked up from his involvement in the LUKI bond.

On the next page, there's an executive summary: "The following sets out the business rationale for Sales Aid Finance (England) Limited."

It says:

"Year on year lending to the UK SME market has slowed dramatically as banks and other financial institutions have retreated from the marketplace. The Bank of England reported January 2013 in its 'Trends On Lending' paper that lending to business have dropped every year since 2009. At the end of 2011, there were c.370,000 active SMEs in the south-east (excluding London) & on average 20 per cent of all SMEs are seeking finance at any one time (ie, 74,000 SMEs in the south-east are seeking finance at any one time). In 2009, the percentage of SMEs securing finance at the level applied for was 90 per cent, this has dropped to 74 per cent of SMEs in 2012 securing some of the finance sought, there is currently no information available detailing the percentage of SMEs who have been successful in securing all of the finance applied for." Then, after a footnote:

"Sales Aid Finance (England) Limited are aiming to raise funds to provide short-term fully secured debt facilities to the SME marketplace in the south-east. Currently the directors hold £20 million of assets which will be charged as security against all bonds. "The south-east has been chosen as the directors have extensive business experience in this area. Together the directors of Sales Aid Finance (England) Limited have over 20 years lending/financing experience combined with over 40 years successful business experience. It is proposed this knowledge and experience backed by relevant professional services, legal, accountancy and surveying, et cetera, be utilised when assessing creditworthiness."

The key features of the bonds are then set out. There is an interest rate of 8.5 per cent per year which will be paid quarterly in arrears:

"The bonds will be redeemed either from accumulated capital or the sale of property's securing the bond's." I'm not sure the apostrophes are strictly necessary: "Unless previously redeemed or purchased and cancelled ... the bonds will mature on the 30 August 2015 ..."

Again, the sort of language which I think has been picked up from the LUKI offering memorandum, and so on. I'm not sure there is anything further we need to look at in this draft. But we do need to see <MDR00013699>, which is an email dated 20 August 2013 from Mr Thomson to Mr Sedgwick attaching version 2 of the SAFE information booklet. He says:

"Hi Robert.

"Can you give me your view on the attached? We are raising money via a private placement to select private individuals using loan notes."

The draft attached is <MDR00013700>, just to confirm it is what we have seen, again, if we look at page 3, it's got some new wording now in the second draft under the heading "Security". It says:

"Sales Aid Finance (England) are offering to provide security consisting of land and property to 150 per cent of all monies raised. For every £100 loan note, £150 of land and property security will be held, for a target raise of £3 million, no less than £4.5 million of property and land assets will be charged as security. Quarterly statements will be produced that will detail the total value of security held and the total value of loan notes outstanding.

"The company's solicitor, Buss Murton Law LLP, has confirmed in a letter (see appendix 1) that out of their pool of assets the company has £4.5 million of unencumbered land and property that is available to be charged.

"All funds will be held in escrow until lent out, at which time loan agreements, guarantees and legal charges will be taken."

Then it is the text that we have seen before about the underfunded SMEs in the south-east. There is a further draft -- sorry, it is exactly the same draft, version 2, which is sent by Mr Thomson to Mr Russell-Murphy on the same date. I think that's <D7D9-0000439>. Yes, it is the same attachment, "SAFE Information Booklet Version 2":

"Hi John.

"Sorry this is later than expected. Let me know your thoughts. It's still in rough Word format, after we have agreed the content I will have the format and graphics sorted.

"I am working on the application form and will send over shortly, do you have a sample introducer form I can have?"

So Mr Thomson has drafted this and is sending it to Mr Russell-Murphy, who says, "Thanks Andy. I will get back to you later".

Mr Thomson also provides Mr Russell-Murphy with a draft loan note agreement. That's at <D7D9-0000440>. We can see the attachment is SAFE loan note agreement. He says:

"Hi John. What are your thoughts on the attached agreement?"

The attachment is the next document, <D7D9-0000441>. It is a fixed-term, 20-month, loan agreement which is to be made between SAFE and the following lender. So the money will be raised not in the form of bonds at this point, but in the form of loans. They will be asking members of the public to lend money to SAFE so that SAFE can lend it on and it is to be filled out by the financial advisors who persuade members of the public to make loans to SAFE.

At the bottom of the page, we see the loan amount has to be transferred to Buss Murton Law LLP, and the bank details are given.

We saw that Mr Thomson had asked Mr Russell-Murphy for his views in respect of the second version of the SAFE information booklet. Mr Russell-Murphy replies a week later at <D7D9-0000453>. Can we look at the next page, please? There has been a specific discussion between them about the wording of a particular paragraph that has been prepared by Mr Sedgwick, on the second page. Mr Sedgwick has emailed Andy Thomson to say: "I would suggest that the paragraph on security be revised as follows.

"Security.

"Sales Aid Finance (England) Limited are offering to provide security consisting of land and property to 150 per cent of all monies raised.

"The money when initially lent to Sales Aid Finance (England) Limited will be held by Buss Murton Law LLP solicitors to Sales Aid Finance (England) Limited in an escrow account until there are adequate assets available to provide the security of 150 per cent of the money being utilised. The value will be verified by valuations provided by independent properly qualified professional valuers."

Mr Thomson has forwarded that to Mr Russell-Murphy saying:

"Does the below paragraph work for you?" Mr Russell-Murphy replies to say:

"Yes that can work, but I thought Simon and Spencer were offering security at 150 per cent of the bond value from day one.

"The problem with what is being suggested is that the money may not be lent out in line with what's described in the prospectus ie cash for Simon and Spencer et cetera.

"If the money raised is lent out in line with the prospectus, then the security being offered would be in addition to what Simon and Spencer have offered. "Give me a call to discuss this further." So, it seems from that email that certainly Mr Russell-Murphy's understanding, and he thinks Mr Thomson's understanding as well, is that the money raised by this bond issue is going to be provided to Mr Hume-Kendall and Mr Golding, and that Mr Hume-Kendall and Mr Golding are going to be providing the security in respect of those advances.

We saw that Mr Thomson described his version 2 as a rough Word version and said he was going to get it formatted. It was formatted by an individual by the name of Rocky O'Leary, and we see that at <D7D9-0000468>. Rocky O'Leary has sent it to Mark Ingham, and Mark Ingham, on the first page, has forwarded it from --

MR JUSTICE MILES: Who is Rocky O'Leary?

MR ROBINS: A graphic designer. He is the in-house graphic designer who works for Mr Golding and Mr Hume-Kendall. If they need something to look professional, he can do his best.

So, Rocky O'Leary sends it to Mark Ingham. Mark Ingham forwards it from his sanctuarydr.com email address to his Hotmail address, which is *********************** and he then forwards it from that Hotmail address to Mr Hume-Kendall, saying: "This is in edit format and has NOT been proofed - very early draft!!"

Apparently, he doesn't know that Mr Hume-Kendall resigned three weeks earlier and has ceased to be involved in the affairs of SAFE. But it seems that Mr Hume-Kendall is not aware of that either because he forwards it to Mr Russell-Murphy to say: "Latest draft in case you didn't see it." The draft that he attaches is at <D7D9-0000469>. It has been jazzed up a bit. There is a logo for SAFE. But it is the text that Mr Thomson prepared. If we could look at page 2, please, we will see "The Safe Solution':

"A proposition that benefits not only the individual investor but also takes advantage of the banks' reluctance to offer finance to local SMEs. "A highly secure opportunity that offers high returns whilst stimulating local economic growth. "High returns.

"8.5 per cent per annum.

"Security for invested funds.

"150 per cent asset backed security for invested funds.

"Clear exit strategy.

"Short term highly securitised revolving credit facilities.

"SAFE invests in local assets."

The next page, we have a contents page, including, at page 10, "How safe is SAFE?" And at page 14 we can see appendix 1 is going to be the Buss Murton -- sorry, back on page 2 -- page 3 it must be, the Buss Murton LLP letter. Then page 4, please, we have Mr Thomson's text about the Bank of England reporting in January in its "Trends on Lending" paper that lending to business has dropped, and we have seen the text before. Page 5, please. The same wording. There is a quote on the left said to be from Sir Mervyn King:

"The only way to increase the growth rate of the economy is by stimulating growth in smaller businesses."

There is a prize for anyone who can find when and where Sir Mervyn King actually said that. It doesn't seem to me, in any way, to be a real quote. But the text on the right is the language that we saw in the first iteration in Mr Thomson's first draft. It has been developed slightly to say:

"Since 2007 stock lending has been in sharp decline, in not only the UK but also the wider global economy. Traditional sources of funding for SME's from the banking sector became scarcer during the initial credit crunch, which lead to a double dip recession, which lead to a double dip recession, indeed in the 3 months to May 2013 stock lending dropped by £4.4 billion. "SMEs have been widely accepted as the engine room of the UK economy and as the UK rises from the current economic recession, this sector must be financed. This presents a significant lending opportunity for SAFE to fulfill as the banks cannot service this sector. "The SAFE bond offering gives consideration to both the individual investor and SME. By utilizing private funding, SME's can access much needed funds to grow and stimulate wider economic growth but at the same time the individual investor can benefit from a much enhanced rate of return safe in the knowledge that their funds are secured against valuable property assets." Then the next page, please, "The Safe Bond -- Key Benefits". Those must be set out on the next -- 8.5 per cent annual interest; asset secured at 150 per cent of capital; interest paid quarterly; two-year income producing bond; available to high net worth and sophisticated investors, including self-certified, from summer/autumn 2013; highly experienced recognised board.

The SAFE bond is ideally suited to:

"Investors who require a high rate of return (eg 8.5 per cent per annum) in the era of negligible interest rates (0.75 per cent per annum). "Investors who require the security of a corporate bond which is asset backed at 150 per cent offering a level of security as good as if not better than a bank would offer.

"Investors who require fixed quarterly interest return over a two-year period;

"Investors who do not require an exit until two years from the date of investment."

The next page, please. This is a further development of the sort of idea that we saw Mr Thomson drafting:

"The Funding Demand in the South-east.

"The following sets out the business rationale for SAFE.

"Sales Aid Finance (England) Limited was created as a result of joint consultation with the leaders of East Sussex, Kent and Essex County Councils to identify the funding requirements of SME's in the south-east and determine how these could be satisfied stimulating the local economy and growth.

The findings concluded that there is a significant shortfall in the availability of corporate funding for these ventures creating an ideal opportunity for a privately backed entrant to the market to fulfil this demand."

Then there are some statistics about SMEs in the south-east. I think those are the ones we saw in Mr Thomson's draft. And then there's, again, some familiar language on the top of the right about the Bank of England's "Trends on Lending" paper: "When Mark Carney took over from Mervyn King ... lending to SMEs dropped by £4.4 billion over the preceding 3 months. The new Governor has been tasked with addressing this declining trend, the SAFE proposition exploits this unprecedented opportunity." The next page, please:

"The SAFE Solution.

"SAFE will raise funds to provide short-term fully secured debt facilities to the SME marketplace in the south-east."

There is another reference to the County Councils. It says:

"The provision of finance to regional business development will not only provide a secure high rate of return for investors, but will as a by-product stimulate regional economic growth.

"It is proposed that all SME financing will be on a fully secured basis (charge over assets at better than 65 per cent loan to value) at terms no longer [than] one year. The initial target market will be SME's with short term cash requirements. All sector lending will be considered but the SAFE team will predominantly focus on the property, M&A and trade finance sector's." The next page, please:

"The new Governor of the Bank of England has been tasked with improving the flow of credit to the committee .... The SAFE bond benefits from this critical demand!"

Is this page 10 or 11? Can we look at the final page -- no, there is more to come. This is "How Safe is SAFE?". It is all about the security. Then it says, in the second paragraph on the left:

"The company's solicitor Buss Murton Law LLP has confirmed in a letter (see appendix 1) that the company currently holds £4.5 million at valuation of unencumbered land and property available to be charged. This security will be further enhanced by the 150 per cent security taken on each loan providing investors with an unparalleled level of security. "In addition to the physical security identified, SAFE will conduct a full financial review of every application and if required will retain the services of Moore Stephens and Baker Tilly to provide further financial analysis prior to any decision to lend being made.

"Investor funds will be received into an escrow contract held at Buss Murton Law LLP and will only be remitted to borrowers when all loan documents and security are in place.

"Interest will be collected into the SAFE operational account on a monthly basis and paid via an agent to investors on a quarterly basis." It says:

"Capital repayment will be made from:

"Accumulated profits.

"Repayment of base loan capital from borrowers. "Sale of property used to secure investment capital. "Liquidation of SAFE's £4.5 million asset base." The letter from Buss Murton that's been mentioned is on page 15. It is dated 28 August 2013. It is to all proposed lenders who are members of the public who will be encouraged to make loans to SAFE pursuant to the loan notes. It is signed by Mr Sedgwick. It says: "We act for SAFE who have instructed us in connection with their proposed business of using monies borrowed under the terms of the 8.5 per cent bond to provide interim finance to assist growing SMEs in developing their business.

"The proposal is that all monies raised by way of loan from investors, the monies will initially be held in this firm's client account in escrow until a suitable loan opportunity arises and will only be disbursed when the loan is finalised and included in the loan arrangements will be security over assets which give not less than 150 per cent cover for each loan. "In addition to the security which the loans will provide, SAFE does have the benefit of guarantees for the following companies that are owned by the directors, and the guarantees are backed by debentures over their unencumbered assets:

"Bewl Holiday Homes LLP £2.25 million; "Lakeview Country Club Limited £1.25 million; "Sanctuary International PCC Limited £1 million. "These companies have net assets which are valued in excess of the amounts of their guarantees." So, that's provided to various people. As we saw, Mr Hume-Kendall sends it to Mr Russell-Murphy, who replies at <D7D9-0000470>. He says:

"Much better, excellent work!"

So, he likes it. He also comments in another email to other recipients at <D7D9-0000474>:

"I think it's good and it will be an easy sell." This is to Ben Beal, who we saw sorting out the bridging finance on Lakeview. It is copied to Joanne Baldock who works with Mr Russell-Murphy and is one of the two people to actually sell the SAFE investment to members of the public, the other being Mr Russell-Murphy. But Mr Russell-Murphy thinks it will be an easy sell.

The version we saw was the first draft from Rocky O'Leary. There are other versions as it evolves. <D7D9-0000477>. This is actually slightly different. This is the SAFE loan note agreement, the form that we saw, the one-page form, to be filled in with the Buss Murton details at the bottom.

It has been formatted. Mr Ingham is sending it to Mr Thomson, Mr Golding, Mr Hume-Kendall and Mr Russell-Murphy:

"Loan agreement again review and only use if happy." It is 6 September 2013, so clearly Mr Ingham hasn't got the memo about Mr Hume-Kendall's resignation.

MR JUSTICE MILES: In that draft memorandum or prospectus, or whatever you call it, I think there was going to be a page to do with who the directors were, or something like that, looking at the contents page.

MR ROBINS: Let's go back and have a look at this because I did skip over it and I can't remember what it says. <D7D9-0000469>. I think the contents page was page 3. "The SAFE team".

MR JUSTICE MILES: Yes, the SAFE team.

MR ROBINS: That's going to be something like page 13 or 14. The page before this, maybe. That's Andrew Thomson. A 17-year career banker and financier. I'm not sure why "Mike" is referred to. It is not a reference to Mr Thomson's first name because it says, "Mike started his accountancy career in 1971 at PriceWaterhouse moving to BP in 1976 where he remained until 2009. The last 15 years with BP were spent as the group's chief accountant". That's not Mr Thomson's career history. It must be a reference to someone else. But on the next page, we see Paul Sayers of Moore Stephens, and it is a picture of Mr Sedgwick, but there is no narrative. We can see if that changes in the subsequent versions of the brochure. Perhaps let's look at version 9 -- let's look at the covering email first --

MR JUSTICE MILES: The letter from Buss Murton talked about the companies being owned by the directors. Can we just go back to that?

MR ROBINS: That was page 15.

MR JUSTICE MILES: It says it has "the benefit of guarantees for the following companies that are owned by the directors", which, on the face of it, would mean the directors of SAFE?

MR ROBINS: Yes.

MR JUSTICE MILES: What was the position at this time in relation to those companies?

MR ROBINS: I hope we can find out by going back to schedule 1 to the neutral statement of uncontested facts, which is in A1. It is the directors of LCF that we are looking for as at this date. It is going to be <A1/5> -- I'm going to say page 76. Let's have a look at page 76. No, it is page 70.

MR JUSTICE MILES: So, at the date of that letter, which was in August --

MR ROBINS: It is Mr Thomson. Only Mr Thomson.

MR JUSTICE MILES: And then Mr Sayers.

MR ROBINS: From 5 September.

MR JUSTICE MILES: Well, that document was, on the face of it, 6 September, the one which had the pictures. So, that would have included Mr Sayers. That would have been correct.

MR ROBINS: Yes. But, in fact, the companies mentioned in the letter are not beneficially owned by Mr Thomson and Mr Sayers. Bewl Holiday Homes was a Hume-Kendall company. Lakeview was -- I can't remember whether at this point we have moved from 75 per cent Spencer Golding, 25 per cent Helen Hume-Kendall, we say really Simon Hume-Kendall, to the subsequent ratios of 71.25 per cent Spencer Golding, 23.75 per cent Simon Hume-Kendall, and 5 per cent Mr Thomson. But it is going to be one of those two iterations as at that time. Certainly, Mr Golding -- we say

Mr Hume-Kendall -- I will come to it, but we say the registration of the shares in Mrs Hume-Kendall's name is very similar to the registration of the shares in Mr Thomson's name. It is a nominee arrangement. In any event, it is not Mr Thomson and Mr Sayers who own Lakeview.

MR JUSTICE MILES: Sanctuary?

MR ROBINS: We saw the chart. That one is, as at this date -- I'm going to have to go back. We saw Mr Thomson got the first 30 shares in Sanctuary -- well, certainly legal title to them on 25 June 2013, and he got a further 25 shares on 31 December 2013. So, I'm not entirely sure what was the position as at the date of that letter in respect of the other 50 out of 80 shares, which were in the two share certificates of 25 shares each, but it was presumably Mr Woodcock, who didn't resign as a director until December of that year, when he transferred some shares -- yes, that's right, we saw the December transfer of 25 shares was from Mr Woodcock to Mr Thomson. The other 25 -- I don't know, I'm afraid, whether it would have been Ryan Golding or Mark Ingham as at the date of that letter, possibly Mark Ingham.

MR JUSTICE MILES: The other thing that letter seemed to refer to -- I'm only looking at it very quickly now, but it seemed to refer to those companies having given guarantees to SAFE.

MR ROBINS: Yes.

MR JUSTICE MILES: Was that something that was done?

MR ROBINS: I have certainly seen draft guarantees being circulated by email. I'm afraid I can't remember off the top of my head whether they were ever signed. We can look at that this evening. But I have certainly seen drafts in email circulation at around the time of that letter.

I'm not sure it's so much a question of the guarantees not being given; it is more a question as to the values attributed. For example, my Lord saw that Sanctuary was said to have assets of more than £1 million. I'm not really sure what those are supposed to be.

We looked at the position in respect of Sanctuary PCC. Its subsidiary was Inversiones, which had ownership of The Hill. It may be --

MR JUSTICE MILES: Don't worry about it now.

MR ROBINS: The Hill was acquired for £708,000.

MR JUSTICE MILES: All right. Don't worry about it now. It is just something I noticed as we were going through. But these may be things that need to be explored further in the evidence.

MR ROBINS: Yes. Let's have a look at version 9. The email covering is <D7D9-0000487>. Rocky is sending version 9 to Mr Ingham, Mr Hume-Kendall and Mr Thomson, Mr Redman, Mr Russell-Murphy and Mr Golding. The attachment is <D7D9-0000488>. Mr Rocky O'Leary says it's been proofread. Perhaps the apostrophes will be in the right place in this version. Can we look at page 3, please? We have got the same contents page.

Let's have a look at what it says about the SAFE team in this version to see if that's moved on. That's going to be somewhere around page 12. We have got Andrew Thomson and Paul Sayers. Is there anyone on the next page? No. I don't know who that is. Is there a Buss Murton letter? Maybe the next page. I think that's the same letter.

MR JUSTICE MILES: Yes.

MR ROBINS: That's, as my Lord saw, being sent to various recipients, including Mr Golding, Mr Hume-Kendall and Mr Thomson.

Rocky also sets up the SAFE website, <D7D9-0000500>. He provides him with the link. He says it's basically the same info as the brochure, and the recipients of the email are Mr Golding, Mr Ingham, Mr Thomson, Mr Redman, Mr Russell-Murphy and Mr Hume-Kendall. Mr Hume-Kendall says in his witness statement that he does recall some work being done on a proposed bond issue, but it never proceeded and no money was ever raised from members of the public.

In fact, as we will see, Ms Baldock and Mr Russell-Murphy have some success in persuading people to lend money to SAFE. At <D7D9-0000505> we have the first investment. If we could look at the next page of the email, Ms Baldock is emailing Mr Thomson at his lvccl.com email address on 11 September 2013. The subject of the email is "SAFE bond investment". She says:

"Hi Andy, I have a completed application form and cheque for £40,000 from some clients." She wants to know where the cheque should be paid into. On the first page, Mr Sedgwick provides the Buss Murton account details and Mr Thomson forwards those to Ms Baldock.

The first clients who have provided this £40,000 are a Mr and Mrs *****. We see that at <MDR00007764>. They have filled in or someone has filled in for them, the form that we have seen before for £40,000, and they get a certificate, which is <D1-0000338>. This is from Sales Aid Finance

(England) Limited to certify that they have an investment. The nominal amount is in the top left, £40,000. There is also an investment from a Mrs ******, <MDR00007771>. She's filled out the firm. I'm not sure why marital status is the second-most important bit of information, but Mrs ****** is a widow. She gets a certificate at <D1-0000339>. In the top left, we see the amount that she has invested in SAFE. The commission payable to Mr Russell-Murphy at this point, in respect of the sales, is 20 per cent, which is interesting because it's essentially the same as the commission for the Sanctuary Investment Scheme. You get 20 per cent of the money that you bring in. In that scheme, it was 20 per cent of deposit, here it is 20 per cent of the investment. We see that at <MDR00007770>.

So, Mrs ********, bond investment, and we see the amount that she invested, just over £60,000. The commission due at 20 per cent is just over £12,000. Again, for Mr *********, another early investor, <D7D9-0000570>, again, an invoice from Mr Russell-Murphy to SAFE, commission due at 20 per cent. There is actually an agreement between SAFE and Mr Russell-Murphy in respect of Mr Russell-Murphy selling loan notes. It is <MDR00007916>. Between SAFE and John Russell-Murphy: "Whereas the principal wishes to issue the loan notes to potential lenders and the distributor wishes to introduce potential lenders to the principal. The parties intend that none of the transactions will comprise activities which are regulated under the Act [Financial Services and Markets Act 2000]." I'm not sure it is quite as simple as that, but there we are.

The commission that's payable is set out in an appendix, which is going to be on page, at a guess, 3 or 4. Let's have a look. No, must be the next page. One more. Let's look at clause 9:

"Fees and charges.

"The fees and charges payable by the principal to the distributor for its services ... are specified in appendix A ..."

That's what we are then looking for. At the bottom of that page, appendix A, "Fees and Charges": "Such fees and charges as may be agreed from time to time between the parties."

So not a set rate. They agreed 20 per cent at the outset.

Mr Russell-Murphy and Ms Baldock continued to sell the loan notes to members of the public. Mr Thomson and Mr Hume-Kendall were closely involved and were kept informed. For example, <D2D10-00006220>. Jo Baldock tells Mr Hume-Kendall:

"The £40,000 investment -- the client is still considering as she may not want to invest the full amount so we will let you know on this one. "Mrs ****** did not get to the bank as she had to work late yesterday so she is going to try and transfer the funds online this evening ..."

Mr Hume-Kendall forwards that to Mr Golding saying, "Not good".

Mrs ******* did ultimately invest £23,000, <MDR00007602> is a letter to her confirming receipt of her £23,000 loan.

Mr Golding, at around this time, December 2013, decides that SAFE should make a special offer, that, as well as paying 8.5 per cent interest per annum, it will also repay 110 per cent of principal on maturity. We see that first at <D7D9-0000835>, where Mr Thomson says to Mr Russell-Murphy:

"I understand from Spence that you need an email from SAFE this morning, if you can let me have the details I will organise it."

At <D7D9-0000836>, Mr Russell-Murphy provides the wording for the email. It is to say:

"Dear John,

"As you are aware, since the inception of our bond in September this year we have seen a huge uptake in the allocation and are ahead of schedule for 2013. "It is our plan to hit the ground running for the new year by being at 150 per cent of target which will enable us to fast track our plans to upgrade SAFE to a regulated financial institution. To incentivise any new clients our shareholders have agreed a 10 per cent bonus payment payable on the maturity of the bond. "Example -- £100,000 invested -- pays £8500 interest each year and then a terminal bonus of 10 per cent -- £10,000.

"For your clients to take advantage of this additional bonus, investment monies would have to be received and cleared by 24 December 2013." It is essentially, it seems, to enable Mr Russell-Murphy and Ms Baldock to tell clients that there's a time-limited opportunity for them to receive an extra return and they should hurry up and get their money across to Buss Murton.

At <D7D9-0000841>, Nicola Wiseman duly obliges, sending it from the ****@salesaidfinance.net email address to Mr Russell-Murphy, and one cannot help but notice the similarity with the Sanctuary deal, where the original buyback deal in the Sanctuary scheme was that Sanctuary would repay 120 per cent of the deposit with interest in the meantime, which Mr Hume-Kendall increased to 150 per cent of the deposit. Now, for SAFE, it is 110 per cent of the deposit on maturity with interest in the meantime and the interest is 8.5 per cent per annum. So there is an obvious parallel.

Jo Baldock and Mr Russell-Murphy continued to sell the SAFE investment. They continued to send their invoices for 20 per cent commission. Mr Thomson and Mr Hume-Kendall continued to be the two individuals who are running SAFE on a day-to-day basis at this time. For example, <D7D9-0001026>. Jo Baldock sends the invoices for ********* and ****:

"Both clients have confirmed funds sent. ""Therefore outstanding invoices are as follows .." The clients are ********, ****, ******** and ******, and the total due by way of commission is £16,600. We don't need to look at the attached invoices, but it's for 20 per cent commission.

******** is one of the clients mentioned there. We see that name again at <D7D9-0001057>, where Mr Russell-Murphy emails Mr Thomson and Mr Hume-Kendall regarding the transfer by Mr and Mrs ******** to Buss Murton's client account. I can't remember where Mr and Mrs ******** live, but it is not in the UK. It might be Malaysia, or something like that. They are using a Swiss bank.

So, there is an investment from *******. I don't think we need to turn up the details, but there is a letter in the form we have seen from SAFE to Mr and Mrs ******** acknowledging receipt of the loan. There is a 20 per cent commission invoice from Mr Russell-Murphy in respect of that commission.

<D7D9-0001061> is another email that reveals Mr Hume-Kendall's involvement. John Russell-Murphy emails him on 20 December 2013 to say:

"Simon, just a quick update -- I have banked a £30,000 cheque from Mrs *********** today directly into the Buss Murton account. Mr *********** has agreed to invest a further £35,000. This is being transferred into the Buss Murton account today, please could you confirm once the funds have been received. Paperwork to follow."

Mr Hume-Kendall says, "Will do".

He also receives the paperwork in respect of an investment from a Mr or Mrs ****** -- <D7D9-0001066>. That's sent to Mr Thomson and Mr Hume-Kendall: "Please find attached.

"New application £10,000.

"ID & power of attorney.

"Funds receipt -- cheque banked today." There's another update provided, <D7D9-0001114>. It's sent by *** ******** to Mr Hume-Kendall and Mr Thomson:

"Just to confirm the following investments have been sold ..."

We see they are all eligible for the 10 per cent bonus payment, so they are all to get the 8.5 per cent in the meantime and 110 per cent on maturity. The commission due is £29,000.

In the following year, early 2014, at <D7D9-0001144>, ********** emails the recipients -- they include Mr Hume-Kendall and Mr Thomson -- to say she has attached the following completed applications and supporting ID for **********, ********, ********, Mr and Mrs *******, ******:

"You should have now received funds for ****** £15,000. Please confirm this.

"Also you have requested the editable certificate, you already have this as you edit it every time you issue a certificate?"

What Katie Maddock explains in her response is that she needs to edit the certificate so she can add the reference to the 10 per cent terminal bonus. Let's look at it, <D7D9-0001160>. Just to pick up the point that Mr Hume-Kendall and Mr Thomson are the recipients of this email -- sorry, I've looked at the wrong email. Can we go back to the previous email? I think I said it was <D7D9-0001144>. Just while we are here, I notice a reference to Group Sustinere Plc on the right-hand side.

The following document then should be

<D7D9-0001160>, if I've got that right. She says: "The editable version of the certificate I require as I had explained in my email was so that we could edit the actual text ... rather than just the ... client details. Andy has requested that I get this from you so that we can incorporate the additional terminal bonus for those in December."

That's sent to, amongst others, Mr Thomson and Mr Hume-Kendall.

There is a helpful spreadsheet that's sent by Katie Maddock to Nicola Wiseman on 7 January 2014. <D2D10-00006240>. It is a spreadsheet of SAFE investors as at that date. If we look at the top, we can see from the left-hand side the surname, the first names, salutation, loan amount, address, date funds received, commission paid, net of commission amount, and those are presumably interest payments, are they? There's a capital repayment sum, a figure for the 10 per cent bonus, but that's not included.

If we go back to the loan amount column on the left, we can see that the total amount received by this point is £538,515.34. So, by 7 January, they have sold, well, loan notes, or borrowed funds to that value. But the sales of these loan notes to members of the public continue. One thing we notice at around this time, in early 2014, is the commission payable to Mr Russell-Murphy goes up from 20 per cent to 25 per cent. We can see a covering email at <D7D9-0001224>. And the email sent to Mr Hume-Kendall: "As discussed with John, please find attached [commission] invoice for payment this morning for *******."

The invoice is <D7D9-0001225>. It now says commission due at 25 per cent.

At <D7D9-0001232>, we see, towards the bottom, Mr Sedgwick has instructed the bank to make payment of your invoice. My Lord may wonder why it falls to Mr Sedgwick to pay the commission. Well, as we will see after the short adjournment, the entire SAFE business at this point in time was run through Buss Murton's client account. Buss Murton receives all loan monies that are payable to SAFE and Buss Murton disburses those loan monies, initially including commissions of 20 per cent to Mr Russell-Murphy, ultimately including commission of 25 per cent to Mr Russell-Murphy. Just to confirm that the ******* invoice of 25 per cent isn't a one-off, we see others, <D7D9-0001233>, if we could zoom in, we see Jo Baldock sending the ****** application documents to Mr Hume-Kendall, and the attachment to the email includes <D7D9-0001237>.

MR JUSTICE MILES: Who is Nicola Wiseman?

MR ROBINS: The personal assistant of Mr Hume-Kendall, who is initially involved in -- with him when it's under the auspices of Group Sustinere. Ultimately, she becomes part of the London Group, then I think London Oil & Gas possibly, I'm not sure. We can check.

MR JUSTICE MILES: But she's his PA? Is that right?

MR ROBINS: Or secretary. I'm not entirely sure of her job title.

MR JUSTICE MILES: I think there was a job title on one of those documents you showed which seemed to say something like "Executive PA" or something.

MR ROBINS: Did it? Sorry, I missed that.

MR JUSTICE MILES: The one which had the Sustinere -- Group Sustinere.

MR ROBINS: <D7D9-0001144>. Mr Shaw is helpfully pointing out in the dramatis personae it says "Executive assistant/PA at London Group Plc, LG LLP, London Power Corporation and International Resorts Group. Also worked at Abitus Limited", which was part of the Sanctuary Scheme that operated a timeshare disposal function for Sanctuary clients. It is the next page, please, just to double-check, "Executive PA, Group Sustinere". Yes, Group Sustinere, as we saw, that's Mr Hume-Kendall and Mr Thomson.

The final document before we rise for the short adjournment is <D2D10-00006820>. We see that it's Nicola Thompson again, his executive assistant, saying to Mr Thomson and Mr Hume-Kendall and Katie Maddock -- Katie Maddock is, if you like, Mr Thomson's Nicola Thompson.

MR JUSTICE MILES: Sorry, we were talking about Nicola Wiseman.

MR ROBINS: Are they not the same? I'm so sorry, I always assumed that Nicola got married. Are they two different people? I always assumed it was a change of name on marriage. I may be --

MR JUSTICE MILES: Oh, it is the same person. So Nicola Thompson, Ms Wiseman becomes Ms Thompson.

MR ROBINS: Yes. I had always assumed that to be the case because the email address doesn't change. But Mr Hume-Kendall is told that they have received £15,000 from Mrs ******* and he replies:

"Finally!! Thanks, Nicky. Please make sure this is sent to us ASAP. Andy will instruct RS [Robert Sedgwick]."

We can see, after the short adjournment, what all this money is used for.

MR JUSTICE MILES: 2 o'clock, thank you. (1.00 pm)

(The short adjournment)

(2.00 pm)

MR ROBINS: My Lord saw, before the short adjournment, that SAFE raised hundreds of thousands of pounds from members of the public so that it could make loans to SMEs in the south-east. We saw Mr Thomson wrote that there are 74,000 SMEs in the south-east seeking finance at any one time. SAFE didn't use the money to make loans to SMEs in the south-east. The first loan was, in fact, to a company incorporated in Guernsey, a company called Sanctuary International PCC, which had successfully raised £2.4 million in additional deposits from investors following Mr Hume-Kendall's roadshow, but which hadn't ultimately seen any of that money because it had been paid by the Sanctuary investors to Buss Murton, which had transferred it to Mr Thomson's company One Monday, which had paid it out to various recipients, including a total of more than £1.1 million to Mr Golding's company, Clydesdale Property Developments, and Mr Hume-Kendall's company, LV Management, as well as various payments to others, including Mr Thomson, and the expenditure of that £2.4 million of additional deposits left Sanctuary with a bit of a problem because, as my Lord saw on the first day of the trial, it was liable to pay £88,000 per month to the Sanctuary investors, so a substantial monthly liability that had to be met from somewhere. So, what we see happening at <MDR00007911> is Sanctuary applying to SAFE for a loan. We can see the loan application form headed "Sales Aid Finance (England) Limited Loan Application", the organisation known as Sanctuary International PCC Limited. The address in Guernsey is provided. The principal officer of the company, Sanctuary International PCC Limited, is said to be Michael Andrew Thomson, director. In fact, as we saw on the first day of the trial, he wasn't appointed as a director of Sanctuary International PCC Limited until June 2015, but he's saying here in the document, in September 2013, that he is a director of that company.

He is a director of SAFE, of course. We know that. He is the sole director of SAFE at this point, I think. I'm not sure Mr Sayers had been appointed yet. But certainly Mr Thomson is a director of SAFE and not a director of Sanctuary --

MR JUSTICE MILES: What's the date of this?

MR ROBINS: This is 16 September 2013. I'm not sure if that is the electronic date or the date on the next page. We will perhaps see when we come to it. The loan amount required is said to be £675,000.

MR JUSTICE MILES: Didn't Mr Sayers become a director about then? Didn't he? Just the day before?

MR ROBINS: The 5th. Mr Shaw tells me the 5th.

MR JUSTICE MILES: So just.

MR ROBINS: Mr Thomson was sole director of SAFE, but he is a director of SAFE at this point and not a director of Sanctuary International PCC Limited. He tells himself that he wants a repayment term of a flexible loan with bullet repayment. He says to himself that he can offer a debenture as security. And he tells himself that the main objectives and key activities of the borrower are "property owner/resort developer". He says the money is to fund ongoing development and sales of resorts and associated costs.

On the next page, it says "See business plan". It is entirely unclear why he is filling this out at all, given that he is a director of SAFE.

On the next page, supporting documents, "Business plan and sales forecasts provided via separate email". I don't know who he's provided them to. It seems like he's provided them to himself. There's the date, 16 September 2013.

So, he applies to himself for a loan, and there's a letter from SAFE to Sanctuary International PCC Limited at <MDR00007894>. This is dated 23 September 2013. It is signed by Michael Peacock, who is not a director of SAFE, but he's said to be the loan officer. We saw his name in conjunction with the Sanctuary investment scheme. He was putting in invoices for 20 per cent of each deposit paid by each Sanctuary investor. In the period before Mr Hume-Kendall had learned that they weren't paying their rent at the Lamberhurst Vineyard and formulated his plan involving the company Sustinere. But Michael Peacock was a Sanctuary person. He is now said to be the loan officer of SAFE.

He writes to Sanctuary International PCC Limited, giving an address in Guernsey. I'm not sure that this was actually posted to Guernsey. We don't have any evidence of that. But it is regarding the £675,000 flexi-loan application:

"Dear Sirs.

"Regarding the above application we are happy to confirm that the requested facility has been approved. "The company's solicitor, Robert Sedgwick, of Buss Murton Law LLP will be writing to you regarding the security documentation and facility agreement. Once the facility and security documentation is in place, the requested funds will be immediately available." One can only assume that this is being put in place to create a veneer of legitimacy for third parties. There is a debenture that is granted in favour of SAFE by Sanctuary International PCC Limited at <MDR00007895>. It is dated seven days later, 30 September 2013, at the top of the page.

If we go to the final page, we see that it's signed on behalf of SAFE by Michael Peacock. As I say, he's not a director of SAFE. On the previous page, we see, at the foot of the page, it's signed on behalf of Sanctuary International PCC Limited by Mr Thomson, but at this time he's not a director of that company. If we go back to page 6, we can see in clause 3 there are various charges granted by Sanctuary International PCC. 3.1 is irrelevant because Sanctuary International PCC doesn't own any land, all it owns is the shares in Inversiones. 3.2 is irrelevant for the same reason.

The only asset that Sanctuary International PCC holds at this point is the share capital in Inversiones. But it has executed a declaration of trust in favour of that share capital in favour of El Cupey Limited, which is owned by Buss Murton (Nominees) on trust for the Sanctuary investors.

Of course, Tenedora, which had the contract for The Beach, was not a subsidiary of Sanctuary International PCC on the structure charts that we saw on Day 1 of the trial; it was a subsidiary of Sanctuary International Resorts Limited of the Bahamas. But, in any event, Tenedora haven't acquired any parcels in the Beach property at this time and didn't do so for many years.

So, there's nothing actually that this debenture could bite on because Sanctuary International PCC Limited is not the beneficial owner of the shares in Inversiones, which are the sole property in its name. There is also a loan agreement between Sanctuary International PCC Limited and SAFE at <MDR00007913>. We see it is dated 1 October 2013. On page 2, we see the details of the parties, the borrower and lender. And on page 3, clause 3 identifies the loan to a limit of £675,000. The interest payable in clause 4 is 30 per cent per annum and the repayment provision in clause 5.1 provides for the borrower to repay the loan together with all interest on 1 September 2015. On page

7, we see the signatures. Mr Thomson, on behalf of Sanctuary -- although, as I say, he is not a director of that company at this point -- witnessed by Mr Sedgwick; Mr Peacock, on behalf of SAFE, although he is not a director of that company, and, again, the witness is Mr Sedgwick.

There is then a drawdown request from Sanctuary to SAFE at <MDR00007910>. It is dated the same date as the loan agreement 1 October 2013. It is signed by Nicola Thompson, executive PA, and it is addressed to Sales Aid Finance (England) Limited. It says "Sanctuary" at the top right, and the bottom has the words "Sanctuary International PCC Limited" and the address in Guernsey.

The letter itself says:

"We write to request that £80,000 be drawn from the company's flexible loan facility and sent to our agent, One Monday Limited.

"One Monday's banking details are ..."

And the sort code and account number are given. My Lord saw, on the first day of the trial, that One Monday is Mr Thomson's company. The additional deposits from the Sanctuary investors were paid by them to Buss Murton, which transferred the monies to One Monday, which paid them out to various recipients. So it is with the money from the SAFE investors. They pay their investments to Buss Murton; Buss Murton pays them out to One Monday, pursuant to drawdown requests like this provided by Sanctuary International PCC; and One Monday then disburses the money to various recipients.

We can see the Buss Murton client account at <MDR00015987>. This is a different client account from the one we saw previously. This is the SAFE client account.

Right at the top, we see in row 2 the £40,000 in from Cooke. E3 is the £10,000 from Constable. And E4 is that very particular sum we saw, £60,515.34, from Crosby. So, that's in column E, the money coming in from the various SAFE investors.

In column D is the money being paid out, and so D5, for example, is Mr Russell-Murphy's commission of 20 per cent on cells E2 and E4. We saw the invoice for that. There are many other commissions of 20 per cent, ultimately 25 per cent, paid out to Mr Russell-Murphy, including, for example, cells D8, D12, D24. So 20 per cent, ultimately 25 per cent, commission paid out to him.

The other payments are principally made to Mr Thomson's company One Monday, and those are what are said to be the drawdowns on the loan between SAFE and Sanctuary. So, for example, cell D6 has £80,000, One Monday Limited loan to Sanctuary PCC, that's on the date of the loan agreement, 1 October 2013. D9 has another payment out to One Monday, loan to Sanctuary PCC, £22,412.28. D14 has another payment out to One Monday, £16,000, on 8 November 2013. D15 is another payment out to One Monday, and so on. We can see those payments coming in to the One Monday account. If we could go back, please, to a document we have seen before, <D2D10-00008623>. It is a spreadsheet where we need to widen the columns to see the contents.

What we saw before, my Lord, at E2 was a big chunk of the Sanctuary investors additional deposits coming in to One Monday's account from Buss Murton. D3 was a payment of £30,000 to Mr Thomson. We also saw before E6, which was another chunky payment of additional deposits from Sanctuary investors which have all been paid individually into Buss Murton's account and then paid out as a lump sum to One Monday. We saw how One Monday used those monies. It made, for example, in D10, a payment to Mr Redman, there's a payment just below that to Katie Maddock, below her, Questrisk is Michael Peacock's company, and £10,000 is paid to him, and various smaller payments. We also saw, in E23, there were some more monies coming in. At E32, there's another payment in of additional deposits from the Sanctuary investors from Buss Murton. We saw, in E47 and E49, the two very chunky payments out to Mr Golding's company, Clydesdale Property, and Mr Hume-Kendall's company, LV Management. So, that's what we have seen before in this document. What we see, moving forward, is the arrival of the SAFE investors' monies from Buss Murton. The first is in row 62, and that's £80,000, which we just saw -- that was paid on 1 October 2013. The transfer of £16,000 to One Monday on 8 November 2013 is row 86, et cetera. So, the payments from Buss Murton's SAFE client account arrive in the One Monday account. After the receipt of that first payment of £80,000 from the SAFE client account on 1 October 2013, we see that monies are being paid out of the One Monday account. For example, row 116 is a transfer from SAFE's client account with Buss Murton. It is row 17 in the Buss Murton client account spreadsheet we were just looking at. That comes in to One Monday's account. Row 121 shows that One Monday pays £12,500 to Mr Golding. Then, in rows 122 and 123, a total of £12,500 is paid out to Mrs Hume-Kendall's bank account. So, some of the SAFE investors' monies are paid by Buss Murton to One Monday to Mr Golding and Mrs Hume-Kendall, or at least to her bank account. Then the same to the next year. Row 156, for example, on 7 January 2013. This is a receipt from the SAFE client account which corresponds to row 41 in that SAFE client account spreadsheet that we were just looking at. It's a -- what did I say? Row 156. Could you highlight -- no, sorry, that's a wrong reference. It is a few lines up. It must be -- there is one at 149 and one below that at 159.

In row 166 --

MR JUSTICE MILES: Sorry, just looking at the codes on those, are those long codes the -- what are they? When it says "Advice confirms" --

MR ROBINS: Bank payment references.

MR JUSTICE MILES: So, it is not the account number?

MR ROBINS: No. I think those are unique reference numbers for each transfer.

MR JUSTICE MILES: So, that tallies with the Buss Murton SAFE --

MR ROBINS: I haven't gone that far. I have tallied the dates and the amounts.

MR JUSTICE MILES: That's what I mean, really.

MR ROBINS: Yes, I have tallied the dates and amounts, but I haven't --

MR JUSTICE MILES: No, I understand that. It is just the amounts and dates tally.

MR ROBINS: Yes.

MR JUSTICE MILES: So the 55, for example, is one of the payments from the SAFE account with Buss Murton. That's the one at 159. Is that right?

MR ROBINS: Let's see. Unfortunately, my notes have gone wrong because what I have said in my notes is row 156 corresponds to row 41 in the SAFE client account spreadsheet. It can't be row 156 because that's a debit rather than a credit. It might be that I have just mistyped and it should be 159. Let's go back and look at the Buss Murton client account and pick it up there. That was <MDR00015987>.

We just saw £80,000 on 1 October --

MR JUSTICE MILES: Well, you can see it at line 38, I think.

MR ROBINS: Okay, that's 38. What's in 41? That is another 40. So, yes. And the others that I picked up were the 80,000 on 1 October. Row 17 in this one, for example, it was row 116 in the document that we were just looking at. So, they marry up. And it is what you'd perhaps expect, with knowledge with the background, that when the -- there are only two sources we have seen into One Monday's account: there are the Sanctuary investors' additional deposits that come from Sanctuary's client account into One Monday; and there are SAFE investors' investments, which also go into Buss Murton and then over to One Monday.

If we can go back to <D2D10-00008623>, this was the One Monday account. We were looking at row -- sorry, we need to widen the columns again. We were looking at row 159, which was the £55,000 coming in. We see in row 166, £15,000 paid to Mr Golding. Then 168 to 169, there's a total of £15,000 to Mrs Hume-Kendall and Mr Hume-Kendall -- "SHK BARC PAYMENT", presumably Barclays. So there are payments to the second, fourth and tenth defendants of the monies from the SAFE investors, but a lot of the money that we see going through the One Monday account from SAFE investors is paid out to a company called Leisure & Tourism, which is a company run by Mr Peacock.

We can see that, for example, at row 73, if we can go back up. There's a Leisure & Tourism payment of £20,500. In row 88, there's a payment to Leisure & Tourism of almost £20,000. In 91, there's another Leisure & Tourism payment. In 96, there's another £6,150. At 103, there's a payment of £6,392.82. At 119, there's a payment of £20,491.67.

They are all very specific numbers, which will help us to recognise them when we see them coming into the Leisure & Tourism bank account. That's at --

MR JUSTICE MILES: What company is that, Leisure & Tourism?

MR ROBINS: It is a company operated by Michael Peacock. We can see what the money is used for when we look at its bank statement.

MR JUSTICE MILES: Mr Peacock, was he -- have I picked up that he was an accountant somewhere, or have I --

MR ROBINS: He was an accountant.

MR JUSTICE MILES: -- got it wrong?

MR ROBINS: He sent invoices for commission to Sanctuary, so we assume that he was working as one of their sales agents. I can't see why else the sales commission would be payable to him.

We just also saw that he was signing as the loan officer for SAFE. He runs a company called Leisure & Tourism. Its bank statement is at <MDR00225566>. We need to look at tab 6 in this spreadsheet. That's the Leisure & Tourism Limited bank account and it gives the sort code and the account number.

The very specific sums that we just saw going out of the One Monday account are arriving here. We see that in row 142 -- that was the first one -- £20,500; 211 --

MR JUSTICE MILES: Sorry, go back to that. Was that 142 or 141? Let's have a look.

MR ROBINS: That was £20,500. It was row 73 in the previous spreadsheet.

MR JUSTICE MILES: Yes, so it is 141.

MR ROBINS: I'm sorry, my Lord, what number is your Lordship looking at?

MR JUSTICE MILES: You said it was row 142, but I think it is row 141, isn't it?

MR ROBINS: Oh, yes, sorry, quite right, row 141.

MR JUSTICE MILES: It is just, for the transcript, it is really important.

MR ROBINS: Absolutely. I'm sorry. It is difficult sometimes to see which row you are looking at.

MR JUSTICE MILES: I think it is 141.

MR ROBINS: I think your Lordship is right. 211 is -- have I got that --

MR JUSTICE MILES: It seems to be 210.

MR ROBINS: It looks like I'm one out each time. 210. This is the £19,599.28, which corresponds to row 88 in the One Monday spreadsheet. Then 263 is -- I'm out again. 262 is £3,100. 267 -- have I got that one right this time? Looking for £6,150.

MR JUSTICE MILES: It is the one before, 266.

MR ROBINS: I don't know how this has happened. My notes say 288. Let's see if I've got all of these wrong.

MR JUSTICE MILES: Yes.

MR ROBINS: 287. And 313 -- no, 312. Well, I don't know how that happened, but that's the exact amount we saw in 312 corresponding to 199 in the One Monday bank statement, £20,491.67.

We can see what the money is being used for. The rest of this spreadsheet is payments out to various individuals. We see their surnames. Each surname is followed by a DR number, which corresponds to their plot off plan in the Sanctuary resort. It hasn't been built yet. These are all the Sanctuary investors. We have seen some of them before. We saw the three Bs -- ******, ******** and ******* in another document when we were looking at the monthly liability of Sanctuary investments PCC to the Sanctuary investors. My row numbers are going to be wrong again, but my notes say we can find ******* in 98, so it is probably going to be 97 or 99. Yes, it is 97. We have got "******* DR 141".

In row 30, or 31, we are going to have ******** -- it is 30. And in 85, just to take the third example, probably 84, is ******. So these are all the Sanctuary investors. These are the monthly interest payments that are payable to them in respect of their original deposits and additional deposits once the Sanctuary entity has recommenced the interest payments that were suspended for a while due to its insolvency. We can see that again in another document, <D2D10-00006668>. This is a spreadsheet headed "October 2013 onwards". In red, it gives the payment source, which is One Monday for most of them. The next column is the payments made in each of the months set out.

Right at the top, it says "Sanctuary. Client payments through Leisure & Tourism Limited to date". So, confirming in rows 1 and 2 that these are the Sanctuary investors and they are being paid their monthly sums through Leisure & Tourism, the payment source generally identified as being One Monday, although there is one which says "Apex Overseas Limited". I'm afraid we don't really know anything about that column.

But row 16 has the very particular sum that we just saw of £20,491.67. We have seen that now in both the One Monday bank statement going out to Leisure & Tourism and the Leisure & Tourism bank statement where it's received from One Monday.

There is another document at <D2D10-00007732>. El Cupey Limited client payments, October 2013 onwards. The payments that we have just seen are here. There's the £20,500, for example, on 31 October 2013. I think I can see the £20,491.67 on 29 November 2013. So, that is, again, consistent.

What all of this, of course, shows is that, having taken in £2.4 million in additional deposits from the Sanctuary investors, and having paid away that money, including more than £1.1 million to Mr Golding's company and Mr Hume-Kendall's company and various other payments, including payments to Mr Thomson, they set up SAFE. The new investors pay monies to SAFE, which they are told will be loans to SMEs, those investors have been promised 8.5 per cent per annum and either 100 per cent or 110 per cent on maturity. Buss Murton pays away 20 per cent, ultimately going up to 25 per cent, as commission to Mr Russell-Murphy. Some of the remaining money is paid out, including to Mr Hume-Kendall, Mrs Hume-Kendall and Mr Golding, but a very substantial part of the money from new SAFE investors is used to pay the interest that is due to the existing Sanctuary investors on their deposits. Money from people who invest in SAFE is being used to pay returns to people who invested in Sanctuary. In other words, new investors are paying old investors from the very beginning. That seems to have been the raison d'etre of SAFE. It's set up to raise monies, but, for a long time, its only borrower is Sanctuary International PCC and the money from the new investors is used to pay returns to the old investors. This is the case from the very beginning of SAFE, as it was called at that point, to the end of LCF, as it later became known, and we can see that from the full version of the Leisure & Tourism bank statement. This is <MDR00225566>. Tab number 6, the sixth tab. This spreadsheet runs all the way to row 10,185. If we can look at that -- I'm not sure how you locate cell 10,185. Oh, you just have to scroll through it. Here we are, in October 2018, shortly before the FCA raid, just less than two months before, money is still coming in and, if we scroll up, let's just take somewhere around 8,000. We see all the Sanctuary investors' surnames and their DR numbers, their plot numbers.

So, through the entire period of LCF's existence, money from new investors is being used to pay interest to the Sanctuary investors.

As we saw from a document a couple of days ago, initially it is £88,000. There is some sort of renegotiation, and it is ultimately reduced -- I think it was used to £60,000 a month, but it is still a substantial liability. So, it is not merely the case that money from LCF investors is being used to pay existing LCF investors, it is also used to pay Sanctuary investors.

Mr Thomson and Mr Hume-Kendall keep on top of this. They have a keen interest in monitoring this and ensuring that there's enough money coming into SAFE to pay out to Sanctuary.

If we look at, for example, <D2D10-00007452>, if we could read up from the bottom of the chain, please, which is page 2, Nicky Thompson, executive assistant, emails Mr Sedgwick on 1 August 2014, copying Mr Hume-Kendall. Subject "SAFE client account": "Good morning, Robert. We are expecting a transfer into the SAFE client account from JRM [John Russell-Murphy] for clients Barry. Have you received the funds already?"

He says at the top:

"Nothing yet as far as I know. Do you know who is making the payment?"

On the previous page, we see she replies to him, copying Mr Hume-Kendall, to say:

"I have just sent an email to Jo for more details, all she said was that clients Barry would be transferring the funds and would be with you today at the latest."

So, that's August 2014. The next month, September 2014, the same picture, <D2D10-00008230>, where Mr Sedgwick has emailed Mr Thomson, Mr Hume-Kendall and Nicky Thompson, subject "SAFE": "I am sending £7,250 to One Monday out of the recent receipt from Mr Russell-Murphy."

And Nicky confirms receipt of the funds. If we could look, then, please, at the next month, <D2D10-00008819>, another example. At the bottom of the chain, it must be on the following page, Nicky Thompson asks Robert:

"Have you received any funds into the SAFE client account?"

He replies, copying Mr Thomson, saying: "We have received the first £15,000 from the investment."

The next day, she asks again:

"Have you received any more funds into the SAFE client account?"

Go to the previous page. He replies, copying Mr Thomson and Mr Hume-Kendall:

"I am not aware of any money in yet and will let you know when it arrives."

Then, on the previous page, she says at the bottom, again copied to Mr Thomson and Mr Hume-Kendall: "I have just spoken with Joanne and she was under the impression that a transfer of £15,000 and £25,000 was sent to you yesterday and a transfer of £10,000 is due today?"

He says:

"No payments have been credited to the account other than the £15,000 yesterday."

Again, copying Mr Thomson and Mr Hume-Kendall. She says:

"Many thanks, Robert. I am waiting on a phone call from John now."

So members of the public are still being persuaded to invest in SAFE. Mr Russell-Murphy and Ms Baldock are still the sales agents. The monies are still coming in to Buss Murton's client account and being paid over to One Monday; ultimately, among other things, to fund interest to Sanctuary investors. Mr Thomson and Mr Hume-Kendall are being kept informed. That continues to be the case into the early part of the following year.

By 30 April 2015, Sanctuary International PCC owes almost £1.3 million to SAFE. Now, we know that because we can see it in <MDR00195285>. That is a letter from Sanctuary International PCC signed on behalf of Sovereign directors, although they have resigned as a director by this point and have been replaced by Mr Thomson. It is to London Capital & Finance, dated 1 November 2015, and it says:

"This letter is to confirm that as at 30 April 2015 Sanctuary International PCC ... owes £1,296,628.19 to London Capital & Finance ..."

We saw, earlier this afternoon, the facility agreement which contained a limit of £675,000. So, Sanctuary is significantly in excess of the facility limit. The drawdowns have continued way beyond the limit of £675,000 to a figure of almost double that. As you might imagine, that poses a bit of a problem for Mr Thomson when LCF comes to be audited because the accountants want to see a copy of the loan agreement between LCF, as it has become by this point, and Sanctuary, and they ask for it on 22 October 2015. We see that at <MDR00019239>. This is an email from Nick Angel of Oliver Clive & Co, who are LCF's accountants and initial auditors. They say to Mr Thomson:

"Hi Andy.

"I've spoken to Steven. Based on the email below, our understanding is that, as long as the audited accounts for 31 March 2015 are submitted by 31 October 2015, then this will be sufficient." My Lord can see that this relates to the audit. One of the questions that they ask, question number 3, is:

"Please could we have a signed copy of the loan agreement with Sanctuary."

Question 4 is:

"Please can you describe in writing the relationship we discussed last week between LCAF, Sanctuary, One Monday and Inversiones. Also, please could you explain again why the loan agreement is with Sanctuary, but the money is going to One Monday?"

So, Mr Thomson receives this email, and he asks Katie to help him answer the questions. If we could go, please, to <MDR00019253>, we see that Katie Maddock emails Mr Thomson on 23 October, the very next day, and says:

"Please look over what I've found before sending it to Nick. What I can't answer I have highlighted in red. Please check the Sanctuary loan agreement is correct as I'm not sure."

For number 3, she says:

"Sanctuary loan agreement attached."

What she attaches is <MDR00019260>. We have seen it before. At page 3, clause 3.1 provides for a loan facility to a limit of £675,000.

So, she's sent that to Mr Thomson. At

<MDR00019276>, Katie Maddock replies to Nick of Oliver Clive & Co on the same day to provide some information, but in relation to question 3, she says: "Signed Sanctuary loan agreement -- Andy will provide this."

Mr Thomson replies at <MDR00019297> on the same day saying:

"Hi Nick.

"Katie just mentioned that she doesn't have a copy of the Sanctuary loan to hand. I'm not in the office at the moment so only have an unsigned copy on my laptop, which I have included for your reference. I can get you a signed copy on Monday."

Well, we know she does have a copy of the Sanctuary loan agreement to hand, because she's just sent it to Mr Thomson. But he says she doesn't have a copy of the Sanctuary loan agreement to hand, and he provides an unsigned copy which he says he has on his laptop. That's the document that we see at <MDR00019298>. It is an agreement dated 2 October 2013 between Sanctuary International PCC Limited and Sales Aid Finance (England) Limited.

On page 2, clause 2.1 provides for a loan of £2 million. The signature blocks are on page 6. We can see that it hasn't been signed. In fact, we will see in a moment it hasn't been signed yet. There is no signed copy in existence at this point in time. But the signature blocks, as at 23 October 2015, envisage that it will be executed as a deed by Sanctuary International PCC Limited acting by Michael

Andrew Thomson and executed as a deed by Sales Aid Finance (England) Limited acting by Michael Andrew Thomson. One point to note about this is that, we will see in a moment, it is a document that's just been created, never been signed before. It's been backdated, as we saw on the front page, but it's also being backdated with some care and attention because, by this point, the company formerly known as Sales Aid Finance (England) Limited has become LCF, but to ensure that the accountants are deceived, it is necessary to refer to that company by its former name, so that the backdating isn't immediately apparent.

So, this is what is sent by Mr Thomson to Nick of Oliver Clive & Co, and it is on the 23rd, which I think was a Friday.

On the 26th, when he said the signed version will follow on Monday, that's the following Monday. We see at <MDR00019406> at 9.08 am on 26 October 2015, Mr Thomson sends to Katie Maddock an email with an attachment called "SAFE Sanctuary loan agreement.pdf". The attachment is at <MDR00019412>. It is a document that we have seen already from the previous Friday. On page 6, the signature blocks still envisage Mr Thomson signing on behalf of both parties. It is still unsigned.

At <MDR00019429>, on the same day, a little later, at 11.15 am, Katie Maddock, executive assistant, sends it back to Mr Thomson with the subject "Signed Sanctuary loan agreement" and she says:

"Hi Andy.

"Please find attached the signed Sanctuary loan agreement, please check over the signature page. Does it not need to say Michael Peacock for Sales Aid Finance rather than yourself? Or acting as an officer of the company?"

What she's referring to, obviously, is the signature panel. We see that at <MDR00019430>, the attachment to this email. At page 6, we can see what Katie has done. She's applied a signature for Mr Thomson and purported to witness it herself on behalf of -- a signature of Mr Thomson on behalf of Sanctuary International PCC Limited. It's got Michael Peacock's signature on behalf of SAFE, but it still says "acting by Michael Andrew Thomson, a director". So, there's a mismatch between the name of the person whose signature appears and the name of the person who was anticipated to sign, and that's what she's asking when she says, "Does it not need to say Michael Peacock for Sales Aid Finance rather than yourself?"

So, at <MDR00019432>, 31 minutes later, Mr Thomson sends her a Word version of "SAFE Sanctuary loan agreement", and the attachment is <MDR00019433>. If we go to page 6, we will see that Mr Thomson has edited it so that, at the bottom, "for Sales Aid Finance (England) Limited", it says "acting by an officer of the company". At <MDR00019475>, Katie Maddock sends an email to Mr Thomson on the same day, a little later. The previous email we saw was 11.46. This is 1.07. She says:

"Loan agreement attached ..."

What she attaches is <MDR00019476>. On page 6, we see she has reapplied the signatures to the version that Mr Thomson just sent to her, where it says "Sales Aid Finance (England) acting by an officer of the company". Still Michael Peacock signing on behalf of Sales Aid Finance (England) Limited. Although, as I said, of course, by this time, that company is known as London Capital & Finance Plc.

If we go back to the first page, we will see that the document has been very deliberately backdated. The agreement is said to be made on the second day of October 2013. It's a convincing forgery, a convincingly backdated document, to be provided to Oliver Clive & Co.

We see that it is provided to them on the very same day at <MDR00019513>. Katie emails Nick Angel on the same day. It is now 2.41 pm. She says:

"Dear Nick.

"Please find attached the two invoices you requested ... as well as the signed Sanctuary loan agreement."

What she sends to him, we might as well look at it, <MDR00019514>, is the backdated agreement, dated 2 October 2013. Page 6 confirms that it's the version we have just watched them create. But, of course, the accountants aren't told that the original loan agreement with Sanctuary was for a sum of £675,000, that Sanctuary borrowed significantly in excess of that limit and that they have belatedly put in place a new agreement with an extended limit instead. What the accountants are presented with is the impression that Sanctuary has always stayed within the agreed facility limit. This is part of the creation of the false impression to ensure that LCF gets through an audit, and it is something that we will see happen again in relation to the PwC audit in due course. But that's the creation of the £2 million Sanctuary loan agreement.

So, when it is said, for example, I think by Mr Thomson, that there is a loan agreement for £2 million, well, it is put in place in October 2015 and, we say, dishonestly backdated in order to deceive Oliver Clive & Company into thinking that this borrower has always stayed within the facility limit. My Lord, that is as much as I want to say at this point about the loan agreement between LCF and Sanctuary International PCC.

The next topic to address is the arrival on the scene of Mr Careless, the fifth defendant, and his business associate, Kerry Venn, who was known at the time as Kerry Graham. That was her maiden name. They both explain in their witness statements that they were running, at this time, a website called The Investment Experts. We can see it at <SUR00129198>. I hope it's in the bundle.

EPE OPERATOR: It's not coming up.

MR ROBINS: Maybe try <SUR00129198-0001>. If I'm going to have to say "hyphen 0001" every time, then I'm afraid we are going to be here for a bit longer.

If we look at page 3 of this email, we can see a screenshot of the website, "The Investment Experts". It says:

"Ask an investment expert a question for free. 5 star reviews. Completely confidential. 100 per cent free service."

You can type your question here and you can submit your question.

It says that questions are currently being answered within 9 minutes.

What Mr Careless and Ms Venn both explain in their witness statements is that they were not, themselves, investment experts, they were not, themselves, in a position to be giving investment advice to members of the public on a confidential basis within nine minutes. What they were doing was collecting the personal data of members of the public who had money that they wished to invest and selling it to financial advisors who might be able to make a commission from selling investment products to those members of the public. So, a member of the public might find out about this website and type a question, and we can see an example at <SUR00000867-0001>. We can see in the box that a member of the public has filled out on the website her name, **************, her email address and her telephone number. She has said:

"Good morning. I am 68 and am looking for a safe way of investing my savings. I am retired and so would like a guaranteed rate of interest and a 'no risk' investment. Prefer not to pay a management fund either. [I recently lost money from my investment portfolio with my bank which I have now closed]."

That arrives with someone called Phillip, someone called Marc, but also with Kerry Graham, as she is then known, and Mr Careless. This has the subject "New Investment Experts Lead", because, as they both explain in their witness statements, this is, to them, a lead; it is not a query from a member of the public which they should do their best to answer, they are not qualified to provide investment advice, it is information which they can sell for a profit.

Ms Venn has explained -- I can't remember whether it is in her witness statement or in her interview with the administrators, which is also in the bundle -- they would phone up financial advisors and say, "We have got some leads. Would you like to pay us something for them?" If, for example, they got an enquiry from someone in Huddersfield, they might look online to find financial advisors based in Huddersfield, phone them up and say, "We have got contact details for someone who is looking for an investment of £100,000. What are you prepared to pay us for this information?" There are countless of these so-called leads in disclosure. Let's look at another. <SUR00000868-0001>. This is another. This is from **************. She asks the following question:

"We have approximately £40,000 to invest and require to have 1 to 5-year investment period. We would like to spread the investment across 2/3 different types of investment in a reasonable safe investment products and paying the highest returns possible above the rate of inflation."

Again, that goes to various people, including Mr Careless and Ms Venn.

At this point in time, January 2015, one of the biggest customers, one of the biggest buyers, of these leads is a company called Blackmore. We see their name appear in the following document,

<SUR00000879-0001>. This is to Aspinal Chase, sorry, not Blackmore. This is another customer for leads. The subject is "TIE [The Investment Experts] lead volumes". I think the reason I thought it was Blackmore is because I think Patrick and Phillip are the Pat and Phil who set up Blackmore, but that possibly comes a bit later. At this point, it's an organisation called Aspinal Chase. She says:

"As per Paul's email we have now delivered 423 leads ... attached is an invoice for the next wave of TIE leads.

"The good news is that the cost per lead has come down by 51 per cent from £68.47 to £33.37 per lead and it is anticipated we can get that down further in time. The invoice is to generate 800 leads at a cost of £16.69 for each lead ..."

She talks about trying to increase to leads worth £100 million per month. That's £100 million in terms of the amounts that the various members of the public are saying they would like to invest. So, if you've got a £60,000 lead, that's a member of the public saying, "I've got £60,000 to invest". A £40,000 lead is a member of the public saying, "I've got £40,000 to invest", and so on.

So, when people talk about leads worth £100 million a month, that's the aggregate of the amount which the relevant members of the public are saying that they have to invest, and The Investment Experts, as I say, collect that data by inviting members of the public to ask questions to investment experts, but, in reality, it is not being answered by investment experts. Mr Careless and Ms Venn are not investment experts. They are selling the data to people who will hope to make a commission from it.

I see the time. I don't know if that is a convenient moment for the shorthand writers' break?

MR JUSTICE MILES: Yes. We will take five minutes. Thank you.

(3.16 pm)

(A short break)

(3.20 pm)

MR JUSTICE MILES: Mr Robins, just to let you know, I have got to rise promptly at 4.15 today.

MR ROBINS: My Lord, we were looking at the website The Investment Experts, which was used to generate leads, as they were called, which could then be sold by Mr Careless and Ms Venn to financial advisors. We know that there were some people who were going to be very interested in buying leads because they were trying to raise money by issuing loan notes to members of the public, and that's, of course, SAFE. Ben Beal, who we saw yesterday in connection with the raising of bridging finance for the Lakeview transaction, was the person who made the connection. If we see at <SUR00158306-0001>, and read up from the bottom of that page, Ms Graham, as she is at the time, says on 19 February 2015:

"Dear Ben.

"Thank you for arranging the meeting for Wednesday, the 25th in Crowborough. I can confirm that 12 pm is ideal for us. Representing Surge Financial Limited will be myself, operations director, and Mr Paul Careless, CEO."

So, it's the two of them:

"Please let me have the address and any background information about the aims of the new fund which will assist us in having the most productive meeting next week."

He replies:

"Dear Kerry and Paul.

"Thank you for confirming the meeting between my client and yourselves, the meeting has been arranged for Wednesday, 25 February at 12.00.

"The meeting will be held at my client's office, which is The Long Barn, Ashdown Business Park, Gillridge Lane, Crowborough, East Sussex ... The people attending from my side are Spencer Golding, Simon Hume-Kendall and Andy Thomson,

John Russell-Murphy.

"Please can you add the following names to the agreement prior to this meeting taking place ..." I think that's a reference to an agreement between Mr Beal and Mr Careless and Ms Graham, as she was, in relation to the possibility of them paying a commission to him if they were able to make any profit from introductions that he made. There was subsequently some litigation relating to that, but that's another story. He says:

"Could you add the following names to the agreement ...

"The companies involved are:

"SAFE, Lakeview Country Club, Oyster Share ..." Which was a company to be set up involving fractional sales at the Lakeview site:

"... and London Oil & Gas."

We will see more about London Oil & Gas in a moment: "The people involved are:

"Spencer Golding, Simon Hume-Kendall, Andy Thomson, Elten Barker, Mike Starkie, Martin Ruscoe, Tim Clink and Philip Bowman.

"I have some hard copy information on the SAFE investment bond that I discussed with you Kerry that I will get to you later today/tomorrow." Kerry replies to him at <SUR00128938-0001>. In the middle of the page, she says:

"I didn't receive any attachments? Do you mean your email with the names of the people we are going to meet on Wednesday and the companies: SAFE, Lakeview and one other (sorry name escapes me and I'm not with my laptop). That is the list? I thought it might be longer?"

He says:

"Hi Kerry, the list will grow [as] I introduce funds, what I don't want to do is produce a long list of funds that aren't worthwhile and have no interest. As I warm up interest we can add names to the list, therefore the names and companies that need to be added for Wednesday's meeting are as follows." And he copies and pastes what he said in his previous email. He provides Kerry with the SAFE information memorandum that we were looking at earlier today, <SUR00128941-0001>. He says:

"Please see Investment KFD for the SAFE investment." I'm not sure we know what "KFD" stands for. But what he attaches at <SUR00128942-0001> is the brochure that we have seen. It is done in a new form. It's been reformatted. If we look at the next page, we can see that it's the same contents, including "How safe is SAFE; SAFE team; appendix 1 (Buss Murton Law LLP letter)", and the text is the same as we have seen previously.

Shortly before the meeting, on the 25th, this is on 23 February 2015, Kerry sends an email to Paul Careless in relation to the meeting. That's at

<SUR00000897-0001>. It's got the subject "Meeting with London Oil & Gas":

"Hi Paul,

"Hope the moving isn't too stressful.

"Our meeting on Wednesday is now at 10 am. Travelling together will be difficult, as you can see from the map ... I suggest we arrive an hour early ... to meet at this coffee shop which is nearby. Then we can talk.

"...

"The London Oil & Gas fund has not launched yet. There is currently no public information about it and Ben has said they have been reluctant to tell him much about it at this early stage, other than the fact that they want to raise £50 million. I asked about the purpose of the fund and it was for oil and gas exploration (thinking that is so high risk/high reward that their conversion will be below 5 per cent) ..." "Conversion" is a term of art that we see being used. It means selling an investment product to a person whose contact details you have. They talk about converting leads. She says conversion will be below 5 per cent:

"... and Ben said he really isn't sure, so we are going in blind about the new fund. However, they do have interesting careers with good pedigrees. "The people we are meeting:

"Simon Hume-Kendall: seems high pedigree, previous positions include vice chairman of Crystal Palace Football Club and regional chairman of Clydesdale Bank. In his more recent career, he owns and develops holiday and leisure resorts and is the chairman of Lakeview Country Club, a hotel in Cornwall. There is no direct mention of a fund on his LinkedIn, other than Lamberhurst Holdings, which is a real estate business with net assets of £2 million. I suspect this is a property fund.

Andy Thomson has a banking background and was a relationship director at RBS, which is what I used to do, but I don't know him, as he joined the year I left. Currently CEO of International Resorts Group Plc (started December 2013 so no accounts information is yet published).

"John Russell-Murphy, director at Grosvenor Park Intelligent Investments, offer 'alternative investments' and specialise in SIPPs. His career has been in finance, previously a director at Natural Capital Wealth and JRM Mortgage Services and was an investment consultant at J Rothschild Assurance.

"Spencer Golding, can't find anything on him. "Ben also lists their business involvement as: "1. SAFE investment bond (can't find anything about this on Google).

"2. Lakeview Country Club -- quite a big holiday resort in Cornwall.

"3. Oyster Share -- like a property timeshare investment. The properties are below £300,000 value and 52 investors share ownership.

"Catch up later."

This is on the 23rd. They have the meeting on the 25th and subsequently Kerry Graham emails Paul Careless at <SUR00000913-0001>. She says in the middle of the page:

"Hi Paul.

"I wrote up my notes (attached).

"Excellent news from Ben! He said they are totally on the line and want to be reeled in. They would like to start with £1 million leads ASAP. Ben will explain that will be at a cost of £3,000 ie £150 per lead. "They want to visit us in Brighton to pick up the discussion, we will pencil in a date that will be after they have had a chance to work the leads and are in a position to discuss the outcome of their sales. They are willing to mould the fund opportunities to work with the advice that we are giving, ie considering a mini bond selling all three investments in one structure.

"We need to work out how we are going to generate the leads to get them across ASAP."

Her attachment is <SUR00000914-0001>. It is a further draft of the notes that she had previously emailed to Mr Careless. As regards Spencer Golding: "No public information, couldn't look up his history but clearly a key player in the team."

Under "SAFE (Sales Aid Finance (England)). "Charge SMEs 12-15 per cent and give a return of 8.5 per cent to investors, this is paid quarterly. Money is tied in for 2 years. Loans no longer than 1 year and 150 per cent asset backed security. The company also put up £4.5 million security from their own real estate portfolio. This is a section 21 exemption bond but are moving towards full FCA accreditation. They have £1 million in this fund."

Then there's some information that she writes up, presumably imparted to her at the meeting, in respect of Leisure & Tourism:

"IRG International Resorts Group. This is basically a land bank. LTD - built out holiday resort in Cornwall and Cape Verde, Lakeview in Cornwall."

She says she thinks Oyster Share is part of this division.

On the next page, after setting out some information that has been imparted to her related to London Oil & Gas, she said:

"Suggestion: link all three products with a bond wrapper. Offers choice and risk spread for investors. "Initial opportunity: overview website and potentially websites for all three funds. "Brochures.

"Online reputation management."

That, you will see, is a reference to what she thought she and Mr Careless could do for these individuals for a fee. They could provide a website, they could provide brochures, they could provide online reputation management.

The first priority, as we saw in her covering email, is to sell some leads to these individuals for £150 a lead, and at <D7D9-0001769> Mr Russell-Murphy emails Mr Careless saying:

"Further to your call the other day, please find below my contact information for your records. I look forward to receiving your email detailing the next steps."

That email can be found at <D7D9-0001771>. It is an email from Mr Careless to Mr Russell-Murphy, copied to Kerry Graham, and he says:

"Hi John. As discussed we would like you to take a trial of our cash investment leads starting on Tuesday. We will send you 20 leads with an average value of £50,000 each and a total value of at least £1 million. But it is likely to be more. We will send you those leads over a two-day period, Tuesday 17th and Wednesday 18th, though it may spill over to Thursday 19th.

"The terms of the trial.

"1. Leads will be delivered by email to you ...

"2. Leads will be exclusive to you.

"3. Leads will be delivered in real time.

"4. Leads will be generated from our website www.investment-experts-online.co.uk.

"5. You can open your conversations with the leads as if you are calling from [Investment Experts Online].

"6. Leads will be delivered at any time, as and when they come into the site.

"7. We will replace any leads for free that you cannot contact by phone within the trial. "We would like to know from you your contact rate and the quality of your conversations. That information will help us to work out a conversion rate for your sales process in any future relationship. Obviously your fund(s) and their online setup will hugely influence conversion, though that can be optimised by us should we enter into a deal with you in the future. "If you are happy to proceed on that basis then please confirm which entity is entering into the trial and Kerry will get an invoice raised and sent over for you to settle prior to the trial on Tuesday." That's the 12th. The very next day,

Mr Russell-Murphy responds, <D7D9-0001772>. In the middle of the page, John Russell-Murphy emails Paul Careless, copying Kerry and Ben Beal, to say: "Further to your last email, we are happy to go ahead with the trial of leads next week, please could you invoice Sales Aid Finance (England) Limited, their address is -- The Long Barn, Ashdown Business Park, Gillridge Lane, Crowborough ...

"I look forward to receiving the first batch of leads on Tuesday!"

Kerry Graham replies at the top of the page: "Dear John, I am pleased to hear you are ready to commence the trial, I attach an invoice for the cost of 20 leads which we will deliver next week. In terms of value, this equates to over £1 million in investment leads."

The invoice may be found at <D7D9-0001773>. It is an invoice from Surge Financial Limited, the sixth defendant, trading as Investment Experts Online to Sales Aid Finance (England) Limited:

"Lead conversion trial @ 20 leads.

"Full lead price £150."

So the total balance due is £3,000. It says at the top that it is invoice number 011, but, in fact, it is the first invoice that the company Surge Financial Limited has ever sent out. Kerry Graham explained subsequently in an email -- we don't need to turn to it -- "This is the one and only invoice we ever sent from Surge. We numbered it number 11 to make it look like more invoices had been sent out, and I suggest we do the same now, and number it 022". So, it is the first invoice ever sent out. I wouldn't want your Lordship to think there had been ten prior invoices. There haven't.

The invoice is sent, and it is not paid immediately. A couple of days later, three days later, Kerry has to chase John Russell-Murphy for payment. That's at <D7D9-0001777>. Right at the bottom of the page, going over to the subsequent page, she has given him a polite nudge to let him know they haven't received the funds yet. He says on the first page, in the middle of the page:

"Thanks for letting me know. I will send a chaser email to Spencer and his team now. Let's work on getting this started tomorrow."

She says, "Okay, thank you".

The invoice is then paid. The leads are provided. On 19 March 2015, Mr Careless tells Mr Russell-Murphy that the trial is now complete. That's at <D7D9-0001783>. He says, at the top of the page: "Hi John, the trial is now complete. We have sent you 21 leads (1 replacement for the wrong number). Total declared value of leads is £1.3 million. I look forward to your feedback in due course." Mr Russell-Murphy provides his feedback in due course. That is 11 days later, on 30 March. <D7D9-0001790>, where he says:

"As discussed, please find attached an update on the leads you have supplied. I am still very positive about getting multiple sales out of the 24 leads supplied, 19 of them are still being worked on and I am expecting 4-5 sales during the next 10 days. What I have noticed is the prospects are taking longer to make a decision, this is probably down to the fact that there is no personal relationship and they are relying on whatever information they can find on the net before making a final decision.

"************ (lead 22) has cashed in his Halifax investment and has agreed in principle to invest £200,000. This will be followed up today. "I should have a more thorough idea on sales by Thursday of this week. I will send you an update at that point."

About three weeks later, just over three weeks later, 23 April 2015, Mr Careless sends a follow-up email. That's <D7D9-0001827>. There has clearly been a further meeting, because he says:

"Hi John, it was good to see you again on Tuesday." The subject is "Joint Venture". He says: "As you know, we have a very good relationship with Blackmore Global ..."

We will see more about them in due course: "... and we are happy to continue with them. However, we have two lead delivering websites, both of which drive £100 million in leads value a month. It is commercially prudent for us to split our baskets and run two separate JVs. After our trials with funds last month we have shortlisted two companies who we think would maximise the value of our proposition. We want to put in writing our terms and ensure you can accommodate us before we move forward.

"The salient points of the proposed JV are: "Surge Financial will provide:

"1. Joint ownership over Investment Experts Online including all IP and marketing.

"2. Ability to deliver £100 million in cash investment leads each month.

"3. The build of all online provenance to assist in sales process.

"4. All sales and marketing materials including new fund websites and brochures.

"5. 50 per cent of the cost of ongoing lead generation.

"New fund will provide:

"1. £500,000 on signing of agreement.

"2. £500,000 on delivery of £5 million in cash into the new fund.

"3. 5 per cent of all funds delivered.

"4. Full transparency on the sales process.

"5. A sales team sufficient to convert leads."

Point 5 is obviously noteworthy at this stage. What Surge Financial is going to provide are the leads; the new fund, SAFE, has to provide the sales team. So, Surge Financial will get 5 per cent of all funds delivered, but that's in return for leads. That's not, at this point, to pay for any sales operation because Surge Financial isn't going to be providing a sales operation, the new fund has to provide that. It says: "We will require a small deposit to secure a 30-day period in which we will finalise the full agreement and cease negotiations with other parties. The success of your trial clearly demonstrates that a JV would be a lucrative venture for both parties. The proposed JV is exactly the one we have in place with Blackmore and therefore we anticipate a simple due diligence from our side as our numbers do the talking.

"I look forward to hearing from you."

We see at <D7D9-0001834> that, as well as this email, there has been a follow-up call, because at the bottom of the page, page 1, Mr Russell-Murphy emails Mr Careless, copied to Kerry and Simon Hume-Kendall and Ben Beal, saying:

"Dear Paul.

"Many thanks for your email and for the call earlier.

"I have sent the email on to Spencer and Simon for their consideration and will phone them this evening to discuss this further.

"I can confirm in principle we are keen to proceed and are taking this opportunity seriously. "I will come back to you once I have spoken with the guys."

At the top of that page, Simon Hume-Kendall replies to John Russell-Murphy, copying Spencer Golding -- this is just between the three of them, and he says: "John, for what it is worth, these are my thoughts. "On the face of it, this seems a rather crude hard sell 'you have made it to our short list and if you give me half a bar you might be selected to join the elite when you'll become a millionaire'.

"Their current website is very thin and CANNOT be generating £100,000,000 (let alone £200 million) worth of leads a month.

"However, it seems he wants us to do the 30-day trial for a 'modest' deposit and if it is VERY modest it might be worth a try. Hopefully my cynicism will be proved wrong (which is often the case) and we will convert a load of leads but in any event I personally believe the upfront payment (£500k or whatever is agreed) should be success driven."

So those are Mr Hume-Kendall's thoughts on the proposition.

He follows up with another email at <D7D9-0001836>, where he says:

"When we spoke on Thursday you asked my agreement to a 5 per cent rear end loading for £150,000 in the SAFE bond. Also you were looking for possible investors of £15,000, £20,000, £100,000 and £200,000. We need to push some of these through as we have only had the £15 [presumably £15,000] since you bought the list of 20 contacts. Can we get some update please." He doesn't seem particularly happy with the rate of progress, and is saying that there's only been one investment of £15,000 from the 20 leads provided. Presumably, that was Mr Benson, who cashed in his Halifax investment.

But certainly, from those two emails, we get the clear impression that Mr Hume-Kendall is not attracted by the offer that has been made by Mr Careless. Mr Russell-Murphy seems rather more keen. He arranges a further meeting with Mr Careless that we see at <D7D9-0001838>, where he says just above the middle of the page:

"I have arranged for Paul Careless from Investment Experts Online to meet with us next Tuesday, 5 May. "The meeting is to discuss a way forwards with them being our market partner."

Mr Golding replies:

"I'm assuming they can't or won't come down to Cornwall?"

There certainly doesn't seem to be any huge enthusiasm on Mr Golding's part either. On 11 May 2015, if we look at <SUR00158414>, we see a series of text messages between Mr Careless and Ben Beal. This has been disclosed by the fifth and sixth defendants. It seems to have been compiled as part of the litigation between Mr Careless and Mr Beal because it's a table of messages in a format that we haven't seen before.

But on the bottom of page 3, in the exchanges between them, third up from the bottom, we see that, on 11 May 2015 at 3.41 in the afternoon, Mr Careless says to Mr Beal:

"Hi Ben. Just want to let you know that we have decided to go with a different fund partner. Spencer was dragging his heels and wasn't keen on an upfront payment. Thanks for everything you did and hopeful we can have a beer at some point. Cheers, Paul." So, by 11 May 2015, there's been the trial of the 20 leads but Mr Careless wanted an upfront payment of £500,000 and Mr Hume-Kendall and Mr Golding aren't enthusiastic and that seems to be the end of it. It is shortly after this that SAFE is rebranded as London Capital & Finance and, to understand that, we need to start by looking at another company with the word "London" in the name, and that's London Oil & Gas. The original London Oil & Gas Limited is the company with the company number ending 629. We can see it in the trial bundle in schedule 1 of the neutral statement of uncontested facts at <A1/5>, page 41. It ultimately came to be known as Global Resorts Property Plc. The incorporation date, we can see, was 22 May 1990. It was known by various names: Emjay Petroleum Pty Limited, London Fuel Oil Limited, and with effect from 3 November 1992, it was known as London Oil & Gas Limited.

We can see while we are here, because it will save time later, that the subsequent names, it becomes the London Group Limited on 4 August 2015, London Group Limited on 10 September 2015, London Group Plc on 4 February 2016, and then it becomes Global Resort Property Plc, which is the company sold to Elysian Resort Group under the Elysian SPA. It then becomes London Energy Holdings Plc, London Energy Holdings Limited and finally London Power Management Limited. So, it goes by various names but, for a very extensive period, from 3 November 1992 to 4 August 2015, it is known as London Oil & Gas Limited. We can see from the bottom of that page that Eric Bosshard was a director, along with his wife. He was also the company secretary. He filled those positions until 28 August 2015. Mr Hume-Kendall became a director on 30 December 2014, as did Mr Ruscoe, Mr Starkie, Mr Van der Vliet and Mr Sedgwick became the company secretary the following year, when Eric Bosshard ceased to fill that position.

On pages 42 to 43, my Lord will see that the company known as London Oil & Gas Limited with the company number ending 629 was owned for a very lengthy period by Eric Bosshard and members of his family. That continues to be the case right up to 1 September 2015, at the bottom of page 43. So, it is a Bosshard company. But it has a very attractive name: London Oil & Gas. Some light is shed on this by a document that we find at <D8-0010053> from Mr Sedgwick's disclosure, where he is providing Mr Hume-Kendall with a draft of an email that he proposes to send to Kerry. He says: "I would propose replying to Kerry as follows: "Dear Kerry.

"Thank you for your email. With regard to the questions you asked me to address I would respond as follows: I first became aware of the company number [ending 629] when it was called London Oil & Gas Limited which [was] acquired by this group in August 2015. It had for many years been a consulting business for Eric Bosshard, who is an oil specialist. The group bought the company to acquire the name London Oil & Gas for its proposed investments in oil and gas. On acquisition, it was agreed that we would change the name of the company to London Group and for it to be the holding company of the group. After changing its name to the London Group Limited we formed a new company London Oil & Gas Limited (company number [ending 575]) which has acquired and developed our oil and gas business. The original company (number [ending 629]) became the group holding company."

So, it was Eric Bosshard's consulting business and was acquired for the name, essentially. We see Eric Bosshard in the document at <MDR00016120>.

MR JUSTICE MILES: So, the company which is the third claimant here, is that the one that Mr Sedgwick described as being incorporated after the acquisition of the original London Oil & Gas.

MR ROBINS: Yes, with company number ending 575.

MR JUSTICE MILES: That then became a subsidiary? That was a subsidiary of old London Oil & Gas, which became London Group Limited?

MR ROBINS: Which became London Group Limited, yes. We will see a chart of what the structure was intended to look like. But to deal first with Mr Bosshard, in the third paragraph, he's commenting on a draft letter. He says: "Appendix 5, paragraph 1: shareholders. The only shareholders of London Oil & Gas Limited are my family. However, the intention is to transform the company into a Plc and for Simon, Martin and Bessel [Van der Vliet] to chip in equity."

So, he's talking about using that company for the purpose of setting up an oil and gas investment company with Mr Hume-Kendall.

There is a meeting in the -- I think in the Hotel du Vin in Tunbridge Wells on Thursday, 4 June. We see that mentioned at <D8-0001012> where Mr Sedgwick is emailing Mr Hume-Kendall and Mr Thomson on 8 June 2015 with the subject "London Oil & Gas Limited". He says: "Just a quick note to recap on our discussions on Thursday as to the restructuring of London Oil & Gas Limited.

"At the moment, LOG is owned solely by Eric or his family and it is intended that he will sell the company for a nominal consideration to London Trading & Development Limited as to 60 per cent and he will retain 20 per cent and Robin Hudson and Brett Stacey will each have 10 per cent. As part of their investment in LOG each of the parties will invest in London Trading & Development through a secured loan note. We need a warranty from him that it is debt and asset free and an indemnity against any liability from the past. "LTD will be directed by the loan note holders to pay the 10 per cent interest on the note to LOG. "LTD will use the money to repay the Ultimate loan over the Lakeview assets and take over the Ultimate security, including the intercreditor deed." So, it looks, actually, from this as though there is a slightly different intention at this point because there is talk about the original LOG being acquired by London Trading & Development Limited.

But, in any event, there have been discussions on Thursday about the restructuring of London Oil & Gas and the formation of some new group of companies, and we see what Eric Bosshard has understood from those discussions in an email that he sends on the same day to someone called Lesley, which is <BOSS.00001343>. All his emails have a strange first page. The email itself actually begins on the second page, where he says: "Dear Lesley.

"Please find attached the information disseminated at last Thursday's meeting in Tunbridge Wells." We will have a look at that in a moment. He says: "The operational part of the London Trading & Development Group is principally the LTD Plc [Leisure & Tourism Development Plc] comprising the Lakeview Country Club development in Cornwall (LV-designations) and the CV-designations which comprise the leisure development under way in the Cape Verde islands. I am sure with your accountant's access to [Companies House] you will be able to review any filings ..."

He says:

"It is a recent incorporation but the business has been ongoing for longer (I believe for over a year). I don't know under what name."

He then says:

"The London Capital & Finance Investment Fund is a financial vehicle to raise bond money. It was originally intended to set up a small bank but was aborted in preference for this bond-raising vehicle. "IRG Plc is a leisure development in

Dominican Republic, much in its infancy (the company secured the land). Intention is to replicate what has been done, and is ongoing in the UK and Cape Verde Islands.

"LOG Co is the revamped 'old' London Oil & Gas, in which I will be the CEO and have a 20 per cent shareholding (through Leman Oil & Gas). Its activities will not just hold the London Technology Company, which is engaged in IT technology and is much in its infancy, but also to include methanol trading, carbon credits business and oil & gas.

"The loans I intend to make to the group will be to the LTDG in the form of debentures, secured on the LV business. It was stressed that the CV and IRG businesses were overseas and less secure and therefore the debentures would be secured against the LV businesses.

"It all sounds fine so far, with BP having signed a Memorandum of Understanding with LOG to support the company by purchasing all its production and be willing to inject up to 10 per cent mezz finance into projects ...", et cetera.

He attaches some information and the document I would like to go to is hopefully at

<BOSS.00001343 ATTCHMENT_10>. If it is not there, we have got it somewhere else and I will give you an alternative reference. But it is here.

So, this is the intention as at the meeting in Tunbridge Wells on Thursday, 4 June 2015. The Topco will be London Trading & Development Group, which will have a number of subsidiaries. Lakeview Country Club Limited is on the left, then there is Leisure & Tourism Development Plc. It will have subsidiaries. LV Lodges, which apparently has four lodges worth over £1 million. LV Resorts which has the Lakeview Resort, it says valuation £11,343,000. CV Resorts and CV Hotels. It says under that "Paradise Beach Phase 2 Valuation £8,708,995". Frankly, no idea where any of those numbers come from.

But in the middle, right under London Trading & Development Group, the third subsidiary shown on the chart is London Capital & Finance, formerly SAFE. So there can be no doubt which company is being mentioned there.

My Lord will recall from previous phases in this litigation where we have alleged that London Capital & Finance is called London Capital & Finance because it was associated with Mr Hume-Kendall, who liked the word "London" so much that he acquired a company called London Oil & Gas for a nominal consideration just to use its name, and who rebranded most of the companies with which he was associated in similar terms, so as to have the word "London" at the beginning of their names. Mr Hume-Kendall has denied that vociferously and said there is absolutely no evidence to support such an outrageous suggestion. He says in his witness statement that Mr Thomson came up with the name London Capital & Finance of his own volition, nothing to do with any of the companies with which Mr Hume-Kendall was associated. Mr Thomson says in his witness statement that he came up with the name entirely of his own volition and without reference to Mr Hume-Kendall. But, in reality, as was blindingly obvious all along, it is called London Capital & Finance because it's associated with Mr Hume-Kendall and he's planning to make it part of the London Trading & Development Group, which as well as including London Capital & Finance, as it is going to be known, will also include, on the right-hand side, the original London Oil & Gas, that's given an intangible assessment of value in the sum of £500,000, and that London Oil & Gas, the original one, at this point is intended to own something called London Technology Company. To the left of that, we haven't dealt with it yet, is IRG Plc which owns Inversiones. It says below that "El Cupey Development, Valuation £11,049,354". I don't know where that comes from. Right at the bottom, on the left, it says "Group net asset value" and it is a sum of almost £24.6 million. So, that's part of the information that has been disseminated in the meeting in Tunbridge Wells on Thursday, 4 June 2015. We see that again in another email, probably the final email to look at today -- the penultimate document -- <D8-0001102>. It is an email from Eric Bosshard to Mr Sedgwick on 21 June 2015. There is an attachment "LTDG structure.jpg" which we will look at in a moment. He says:

"Dear Robert, I have done a bit more work on the background of the companies, which are intended to be part of the London Oil & Gas and Leman O&G transaction at our meeting on ..."

Well, he now says Friday, the 5th, in the Hotel du Vin in Tunbridge Wells. I don't know if there were two meetings, one on Thursday, the 4th, and another on Friday, the 5th, but he mentions Friday, the 5th. It might be because he is misremembering or it might have happened that there were meetings on two successive days. But he says:

"... at our meeting on Friday, 5th, in the Hotel du Vin in Tunbridge Wells an organisation chart of LTDG (attached as LTDG structure) was disseminated in the information booklet prepared by Andy Thomson." We don't have that information booklet -- as far as I'm aware, no-one has disclosed it -- but we do have this organisation chart, which formed part of it. He says:

"From it LTD Plc (Leisure & Tourism Developments Plc) is holding the Cornish assets ... against which I was told that the Leman O&G loan would be secured. However, in the draft of the loan agreement between LTDG and Leman, which you sent me, the security is with Lakeview Country Club Limited which, in the organisation chart, does not own the LV Lodges and LV Resorts." So, he's asking for an explanation.

The attachment is the next document, <D8-0001103>. It is the structure chart that we have already seen. So there can be no doubt that it was being discussed at the meeting as the intended structure for the new group. By Thursday, 4 June 2015, at the latest, Mr Hume-Kendall had decided that SAFE should be renamed and that its new name would be London Capital & Finance, and that's because it was going to be the capital and finance arm of the London Trading & Development Group, which would include, as well as London Trading & Development Group, London Oil & Gas, London Technology, London Capital & Finance. Mr Hume-Kendall was rebranding his companies.

Sure enough, the name of SAFE was changed to LCF. The resolution for the change of name was passed on 30 June 2015, and the change of name took effect from 1 July 2015.

If that is a convenient moment, and to ensure your Lordship isn't late, I propose to draw stumps there.

MR JUSTICE MILES: We will reconvene tomorrow morning at 10.30 am.

(4.13 pm)

(The hearing was adjourned to

Thursday, 22 February 2024 at 10.30 am)

Transcript originally produced by:

Epiq Europe Ltd www.epiqglobal.com Lower Ground Floor, 46 Chancery Lane London, WC2A 1JE

And converted to a more readable format using an automated process by:

Daniel Cloake www.mouseinthecourt.co.uk

Investor names and contact information have been redacted