

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

**B E T W E E N :**

- (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

## O. THE CLAIMS AGAINST EACH DEFENDANT

O1.1 The Claimants have pleaded the following causes of action against the Defendants.

### O2 D1

O2.1 (i) Fraudulent trading: D1 was knowingly party to the fraudulent carrying on of business of LCF within section 246ZA of the Insolvency Act 1986.<sup>2368</sup> Further or alternatively, D1 was knowingly party to the fraudulent carrying on of business of LOG within section 246ZA of the Insolvency Act 1986.<sup>2369</sup> (ii) Breach of duty to LCF: D1 breached the duties, including fiduciary duties, he owed to LCF under sections 171 to 177 of the Companies Act 2006.<sup>2370</sup> (iii) Proprietary tracing claims: D1 holds on trust for LCF all monies paid from LCF in breach of fiduciary duty and their traceable proceeds which are held by him.<sup>2371</sup> (iv) Knowing receipt: D1 is liable as a knowing recipient in respect of all monies paid from LCF in breach of fiduciary duty and their traceable proceeds which were received by him.<sup>2372</sup> (v) Dishonest assistance: D1 dishonestly assisted D4 to breach the fiduciary duties he owed to LCF.<sup>2373</sup>

### O3 D2

O3.1 (i) Fraudulent trading: D2 was knowingly party to the fraudulent carrying on of business of LCF within section 246ZA of the Insolvency Act 1986.<sup>2374</sup> Further or alternatively, D2 was knowingly party to the fraudulent carrying on of business of LOG within section 246ZA of the Insolvency Act 1986.<sup>2375</sup> (ii) Breach of duty to LOG: D2 breached the duties, including fiduciary duties, he owed to LOG under sections 171 to 177 of the Companies Act 2006.<sup>2376</sup> (iii) Proprietary tracing claims: D2 holds on trust for LCF all monies paid from LCF in breach of fiduciary duty and their traceable proceeds which

are held by him (alternatively and where applicable, holds on trust for LOG all monies paid from LOG and their traceable proceeds which are held by him).<sup>2377</sup> **(iv) Knowing receipt**: D2 is liable as a knowing recipient in respect of all monies paid from LCF in breach of fiduciary duty and their traceable proceeds which were received by him.<sup>2378</sup> **(v) Dishonest assistance**: D2 dishonestly assisted D1 and D4 to breach the fiduciary duties they owed to LCF.<sup>2379</sup>

#### **O4 D4**

O4.1 **(i) Fraudulent trading**: D4 was knowingly party to the fraudulent carrying on of business of LCF within section 246ZA of the Insolvency Act 1986.<sup>2380</sup> Further or alternatively, D4 was knowingly party to the fraudulent carrying on of business of LOG within section 246ZA of the Insolvency Act 1986.<sup>2381</sup> **(ii) Breach of duty to LCF**: D4 breached the duties, including fiduciary duties, he owed to LCF under sections 171 to 177 of the Companies Act 2006 as a shadow and/or *de facto* director.<sup>2382</sup> **(iii) Proprietary tracing claims**: D4 holds on trust for LCF all monies paid from LCF in breach of fiduciary duty and their traceable proceeds which are held by him.<sup>2383</sup> **(iv) Knowing receipt**: D4 is liable as a knowing recipient in respect of all monies paid from LCF in breach of fiduciary duty and their traceable proceeds which were received by him.<sup>2384</sup> **(v) Dishonest assistance**: D4 dishonestly assisted D1 to breach the fiduciary duties he owed to LCF.<sup>2385</sup>

#### **O5 D5**

O5.1 **(i) Fraudulent trading**: D5 was knowingly party to the fraudulent carrying on of business of LCF within section 246ZA of the Insolvency Act 1986.<sup>2386</sup> Further or alternatively, D5 was knowingly party to the fraudulent carrying on of business of LOG within section 246ZA of the Insolvency Act 1986.<sup>2387</sup> **(ii) Proprietary tracing claims**: D5 holds on trust for LCF all monies paid from LCF in breach of fiduciary duty and their traceable

proceeds which are held by him.<sup>2388</sup> **(iii) Knowing receipt**: D5 is liable as a knowing recipient in respect of all monies paid from LCF in breach of fiduciary duty and their traceable proceeds which were received by him.<sup>2389</sup> **(iv) Dishonest assistance**: D5 dishonestly assisted D1 and D4 to breach the fiduciary duties they owed to LCF.<sup>2390</sup>

## **O6**     **D6**

O6.1     **(i) Fraudulent trading**: D6 was knowingly party to the fraudulent carrying on of business of LCF within section 246ZA of the Insolvency Act 1986.<sup>2391</sup> Further or alternatively, D6 was knowingly party to the fraudulent carrying on of business of LOG within section 246ZA of the Insolvency Act 1986.<sup>2392</sup> **(ii) Proprietary tracing claims**: D6 holds on trust for LCF all monies paid from LCF in breach of fiduciary duty and their traceable proceeds which are held by it.<sup>2393</sup> **(iii) Knowing receipt**: D6 is liable as a knowing recipient in respect of all monies paid from LCF in breach of fiduciary duty and their traceable proceeds which were received by it.<sup>2394</sup> **(iv) Dishonest assistance**: D6 dishonestly assisted D1 and D4 to breach the fiduciary duties they owed to LCF.<sup>2395</sup>

## **O7**     **D7**

O7.1     **(i) Fraudulent trading**: D7 was knowingly party to the fraudulent carrying on of business of LCF within section 246ZA of the Insolvency Act 1986.<sup>2396</sup> Further or alternatively, D7 was knowingly party to the fraudulent carrying on of business of LCF and LOG within section 246ZA of the Insolvency Act 1986.<sup>2397</sup> **(ii) Proprietary tracing claims**: D7 holds on trust for LCF all monies paid from LCF in breach of fiduciary duty and their traceable proceeds which are held by him.<sup>2398</sup> **(iii) Knowing receipt**: D7 is liable as a knowing recipient in respect of all monies paid from LCF in breach of fiduciary duty and their traceable proceeds which were received by him.<sup>2399</sup> **(iv) Dishonest assistance**: D7 dishonestly assisted D1 and D4 to breach the fiduciary duties they owed to LCF.<sup>2400</sup>

**O8**     **D8**

O8.1     **(i) Fraudulent trading**: D8 was knowingly party to the fraudulent carrying on of business of LCF within section 246ZA of the Insolvency Act 1986.<sup>2401</sup> Further or alternatively, D8 was knowingly party to the fraudulent carrying on of business of LOG within section 246ZA of the Insolvency Act 1986.<sup>2402</sup> **(ii) Proprietary tracing claims**: D8 holds on trust for LCF all monies paid from LCF in breach of fiduciary duty and their traceable proceeds which are held by him.<sup>2403</sup> **(iii) Knowing receipt**: D8 is liable as a knowing recipient in respect of all monies paid from LCF in breach of fiduciary duty and their traceable proceeds which were received by him.<sup>2404</sup> **(iv) Dishonest assistance**: D8 dishonestly assisted D1 and D4 to breach the fiduciary duties they owed to LCF.<sup>2405</sup>

**O9**     **D9**

O9.1     **(i) Proprietary tracing claims**: D9 holds on trust for LCF all monies paid from LCF in breach of fiduciary duty and their traceable proceeds which are held by it.<sup>2406</sup> **(ii) Knowing receipt**: D9 is liable as a knowing recipient in respect of all monies paid from LCF in breach of fiduciary duty and their traceable proceeds received by it.<sup>2407</sup>

**O10**    **D10**

O10.1   **(i) Proprietary tracing claims**: D10 holds on trust for LCF all monies paid from LCF in breach of fiduciary duty and their traceable proceeds which are held by her.<sup>2408</sup> **(ii) Receipt as nominee for D2**: D10 received as nominee for D2 all monies belonging to LCF that were paid to her and their traceable proceeds.<sup>2409</sup>

**O11**    **Interest**

O11.1   All of the Defendants are further liable to pay interest to the Claimants pursuant to section 35A of the Senior Courts Act 1981 or in equity.<sup>2410</sup>