

Claimants
C Lloyd
Second
5 March 2024

Claim No. BL-2020-001343

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 INVESTMENT LIMITED
- (10) HELEN HUME-KENDALL
- ~~(11) FRANCIS MICHAEL WILLIAM STARKIE~~
- ~~(12) MARTIN STEPHEN RUSCOE~~
- ~~(13) ERIC BOSSHARD~~
- ~~(14) ROGER STEPHEN FILTNESS (REPRESENTATIVE OF THE ESTATE OF ROBIN HUDSON)~~
- ~~(15) CHARLES HENDRY~~

Defendants

SECOND WITNESS STATEMENT OF CLARE LLOYD

I, **CLARE LLOYD**, of EVELYN PARTNERS LLP, 45 GRESHAM STREET, LONDON EC2V 7BG, **WILL STATE** as follows:

1. I am a Director at Evelyn Partners LLP (**Evelyn**). I work at Evelyn with, amongst others, Finbarr O'Connell, Colin Hardman, Adam Stephens and Henry Shinnars who are Joint Administrators of London Capital & Finance plc (**LCF**). Mr O'Connell, Mr Hardman and Mr Stephens are also Joint Administrators of London Oil & Gas Limited (**LOG**).
2. I have previously made a witness statement in these proceedings dated 11 October 2023.
3. I make this statement in support of the Claimants' claim against the Defendants. I am duly authorised to make this witness statement on behalf of the administrators of LCF and LOG, and on behalf of LCF and LOG. The facts and matters set out in this statement are within my own knowledge and they are true to the best of my knowledge and belief.
4. This statement has been prepared following discussions with the solicitors appointed by the Claimants, Mishcon de Reya LLP (**Mishcon**), over the telephone and a video call. Unless specified otherwise below, I have a good recollection of the matters addressed in this witness statement.
5. When I refer to a document in this statement that has been disclosed, I refer to its location within the electronic trial bundle. Where a document has not been disclosed in the proceedings, but I have referred to it, I have exhibited these documents in **Exhibit CL2**.
6. The purpose of this witness statement is to provide the parties and the Court with an estimated calculation of the total deficiency to LCF bondholders as at 5 March 2024 (the **Deficit Calculation**). A copy of the Deficit Calculation is enclosed at **Exhibit CL2/I-4**. In this witness statement, I will explain how I formulated the Deficit Calculation, including the sources of information used to gather the data.
7. Nothing in this witness statement should be taken as any indication that the Claimants have waived any privilege to which they are entitled.

Deficit Calculation

8. The Deficit Calculation is an Excel spreadsheet comprised of three tabs, labelled as follows:
- (a) Tab 1 – LCF & LOG Deficiency
 - (b) Tab 2 – Interest Calculation
 - (c) Tab 3 – LCF Loan Balance owed by LOG
9. I will explain the content of each tab separately and in more detail below.

Tab 1 – LCF Deficiency

10. Tab 1 of the Deficit Calculation is split into two halves, with (i) a calculation for the deficiency to the LCF estate and the total sums owed to LCF bondholders on the lefthand side; and (ii) a calculation the deficiency to the LOG estate on the righthand side. I will explain each calculation in more detail below.

(i) *LCF – Deficiency to Bondholders/LCF Estate*

11. The total estimated deficiency to the LCF estate is £372,661,022. This has been calculated using the following formula:

Sums owed to LCF bondholders = £364,504,657
LESS
Receipts and payments account balance = £(183,832)
PLUS
Current outstanding liabilities which have been incurred by the LCF estate, but not yet paid = £8,340,196
TOTAL = £372,661,022

12. Under the heading "Sums owed to Bondholders", there are three figures:
- (1) Capital sums invested and outstanding as at 30 January 2019 – £237,207,497. This figure has been taken from the LCF Joint Administrators' Proposals dated 25

March 2019 [**HI/0**] and has been quoted in subsequent reports by the Joint Administrators of LCF. This number is fixed and will not change.

- (2) Accrued, unpaid interest up to 30 January 2019 – £8,063,550. Tab 2 of the spreadsheet contains the interest calculation, which I explain in more detail below. Essentially, this is the total amount of interest which has accrued for each bond product, up until the date of the Joint Administrators' appointment. This number is fixed and will not change.
- (3) Default interest payable to 5 March 2024 – £125,135,829. Tab 2 of the spreadsheet contains the interest calculation, which I explain in more detail below. This represents the total amount of interest which has accrued since maturity of each bond product up until 5 March 2024. This number will continue to increase as the default interest accrues.

13. Under the heading "Receipts & Payments account – 5 March 2024", there are three broad categories of costs, comprising: (i) realisations to the estate of LCF; (ii) costs to the estate of LCF; and (iii) current outstanding liabilities (incurred but not yet paid). By way of further explanation:

- (a) The figures in categories (i) and (ii) have been extracted from an Insolvency Practitioners System SQL (IPS) called "Turnkey" maintained by the Joint Administrators, which is commonly used within the insolvency industry. Turnkey records all payments and receipts that are either paid into the estate of LCF, or out of the estate of LCF. I have lifted these figures straight from Turnkey.
- (b) Category (iii) is the current amount of outstanding liabilities which the estate of LCF has incurred but not yet paid. This includes the WIP of the Joint Administrators' fees (which I have lifted from Evelyn's firmwide client time-recording system, "STAR – Practice Management System" (**STAR**)); and Mishcon's outstanding legal fees and expenses (which information has been

provided by Mishcon); and the VAT incurred on costs and expenses in the administration, which is irrecoverable as LCF is not VAT-registered.

(i) *LOG – Deficiency to Creditors*

14. On the righthand side of the spreadsheet is the deficiency position of LOG. The total estimated deficiency to LOG's single creditor, LCF, is £155,077,868. This has been calculated as follows:

Loan owed to LCF = £151,087,543
LESS
Receipts and payments account balance = £(1,642,579)
PLUS
Current outstanding liabilities which have been incurred by LOG estate, but not yet paid = £5,632,903
TOTAL = £155,077,868

15. Under the heading "Sums owed to Creditors", the amount of LCF's loan to LOG which is still outstanding as at 5 March 2024 is £151,087,543. The calculation for this amount is shown in Tab 3 (explained in more detail below).
16. Under the heading "Receipts & Payments account - 5 March 2024 (includes first LOG admin)" the same three broad categories of realisations, costs and liabilities to the LCF estate apply to the LOG estate, namely: (i) realisations to the estate of LOG; (ii) costs to the estate of LOG; and (iii) current outstanding liabilities (incurred but not yet paid). I have extracted these figures from the same sources used for the LCF estate, being Turnkey¹ (for categories (i) and (ii)), STAR for the Joint Administrators' WIP and Mishcon's unpaid legal fees and expenses for category (iii).

¹ Turnkey maintains a separate record for each insolvency case, therefore LCF and LOG have separate and distinct statutory insolvency practitioner case records including receipts & payments accounts.

Tab 2 – Interest Calculations

17. Tab 2 of the Deficit Calculation contains a formula-driven breakdown of interest calculations applicable to each of the bond products, up to (i) 30 January 2019, i.e. the date of the Joint Administrators' appointment (column N); and (ii) 5 March 2024, i.e. post the Joint Administrators' appointment (column O). The figure of £8,063,550 will not change, whereas the figure of £125,135,829 will continue to rise unless any amounts are received by the LCF estate.
18. Column P ("Total claim") is the bondholders' total claim, i.e. the capital due on each bond product, plus the interest accrued until the Joint Administrators' appointment, plus the continuing interest – which gives a total figure of £370,406,876.

TAB 3 – LCF Loan Balance owed by LOG

19. Tab 3 of the Deficit Calculation is again formula driven to calculate the running cost of the LCF loan to LOG. Unlike standard loans, it was not a capital amount which was loaned by LCF – it was a drawdown facility which accrued interest. The balance of that facility which was outstanding as at the date of the Joint Administrators' appointment over LCF was approximately £124 million. This figure has been referenced in the LCF proposals and subsequent LCF and LOG progress reports, all of which are publicly available on Companies House.
20. The Joint Administrators have been applying contractual interest as per the facility agreements throughout their appointment, deducting any payments that LOG has made to LCF since their appointment (which totals £10 million)². The first payment was made on 23 February 2020 in the amount £6 million, then another payment of £3.5 million was made on 23 April 2020 and a further £500,000 on 21 December 2020.
21. The interest has accrued up to each point in time when a payment was made by LOG to reduce the outstanding loan balance, and is now a running daily balance. As shown on the spreadsheet, there has been no payment from LOG since 21 December 2020 and there is unlikely to be any repayments from LOG to LCF on this loan for the foreseeable future, due to the lack of realisations in the LOG estate.

² J1/3, J1/4, J1/5, J1/19, J1/20, J1/24 (facility agreements) and MDR00207348 (LOG loan profile),

Conclusion

- 22. The total deficit to LCF bondholders will be reduced by any subsequent asset realisations of LCF, but will increase for any future costs to the LCF estate. Consequently, the figures in the Deficit Calculation will be updated from time to time to reflect the interest accrued, any changes to the Receipts & Payments account and outstanding liabilities.
- 23. The figures in the Deficit Calculation do not include any future realisations, which would serve to decrease the deficit, or any future or contingent costs (i.e. those which have not yet fallen due), which would serve to increase the deficit.

STATEMENT OF TRUTH

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Signed: 

Name: Clare Lloyd

Date: 05 March 2024

WITNESS CONFIRMATION OF COMPLIANCE

I understand that the purpose of this witness statement is to set out matters of fact of which I have personal knowledge.

I understand that it is not my function to argue the case, either generally or on particular points, or to take the court through the documents in the case.

This witness statement sets out only my personal knowledge and recollection, in my own words.

On points that I understand to be important in the case, I have stated honestly (a) how well I recall matters and (b) whether my memory has been refreshed by considering documents, if so how and when.

I have not been asked or encouraged by anyone to include in this statement anything that is not my own account, to the best of my ability and recollection, of events I witnessed or matters of which I have personal knowledge.

Signed: 

Name: Clare Lloyd

Date: 05 March 2024

LEGAL REPRESENTATIVE CERTIFICATE OF COMPLIANCE

I hereby certify that:

1. I am the relevant legal representative within the meaning of Practice Direction 57AC.
2. I am satisfied that the purpose and proper content of trial witness statements, and proper practice in relation to their preparation, including the witness confirmation required by paragraph 4.1 of Practice Direction 57AC, have been discussed with and explained to Clare Lloyd.
3. I believe this trial witness statement complies with Practice Direction 57AC and paragraphs 18.1 and 18.2 of Practice Direction 32, and that it has been prepared in accordance with the Statement of Best Practice contained in the Appendix to Practice Direction 57AC.

Signed: 

Name: Barry Coffey

Position: Partner

Date: 05 March 2024

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- ~~(REPRESENTATIVE OF THE ESTATE OF ROBIN~~**

**HUDSON)
(15) CHARLES HENDRY**

Defendants

**SECOND WITNESS STATEMENT OF CLARE
LLOYD**

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