Claimant

Kerry Grace Venn

First Witness Statement

14 September 2023

Claim No. BL-2020-001343

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

BETWEEN:

(1) LONDON CAPITAL & FINANCE PLC (IN ADMINISTRATION)
(2) MR FINBARR O'CONNELL, MR ADAM STEPHENS, MR HENRY SHINNERS, MR COLIN HARDMAN AND MR GEOFFREY ROWLEY (JOINT ADMINISTRATORS OF LONDON CAPITAL & FINANCE PLC (IN ADMINISTRATION))
(3) LONDON OIL & GAS LIMITED (IN ADMINISTRATION)
(4) MR FINBARR O'CONNELL, MR ADAM STEPHENS, MR COLIN HARDMAN AND MR 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 INTELLIGEN INVESTMENT LIMITED
(10) HELEN HUME-KENDALL

Defendants

WITNESS STATEMENT

OF KERRY GRACE VENN

I, KERRY GRACE VENN, of [redacted], Eastbourne, East Sussex, [redacted] **WILL SAY** as follows:

A. INTRODUCTION

1 I am Kerry Grace Venn (nee Graham) and I was a Director of the Sixth Defendant, Surge Financial Limited with Company Number 09395654 ("**Surge**"), from 19 January

2015 to 25 September 2019. I make this statement in support of the Fifth and Sixth Defendants' Defence of these proceedings brought by the administrators of London Capital & Finance PLC ("**LCF**") and London Oil and Gas Limited ("**LOG**"). I believe the Fifth and Sixth Defendants to be innocent of any wrongdoing.

2 Except where I indicate to the contrary, the facts and matters within this statement are within my knowledge and are true to the best of my knowledge and belief. Where the facts are not within my own knowledge, I identify my sources of information or belief.

3 Exhibited to this statement is a list of the documents I have been referred to for the purpose of providing the evidence set out in this statement. These are documents I created or saw at the time. Where I refer to documents in this statement, they are to documents in that list and will be identified by the document numbers set out in that list, which I am informed by the Fifth and Sixth Defendants' solicitors, Kingsley Napley LLP, correspond to the bates numbers allocated to the Fifth and Sixth Defendants' disclosed documents.

B. BACKGROUND AND WORK HISTORY

4 I started my career on a Barclays Graduate Scheme in September 2001. After four years at Barclays, I moved to RBS in August 2005 and worked there until September 2009. Barclays and RBS provided regulated financial services, but I had no knowledge of this area, the Financial Services and Markets Act 2000 ("**FSMA**") or financial marketing from my time working at either bank. I worked in Business Development for the Commercial arm of the bank. Whilst I am aware that the First Defendant ("**Andy**") also worked at RBS at some point, I did not meet or know of him during the time that I worked there.

B1. InfoConnection Limited

5 In 2009, a client of RBS invited me to be Head of Sales and Marketing of a small technology business called Infoshare Limited ("**Infoshare**"). Infoshare made software for master data management. The software enabled larger organisations with data in multiple, disparate, business systems to share data to identify links and to produce an enhanced view.

6 Eventually, I decided I wanted to do something more entrepreneurial for myself and the natural next step was to start my own business. With Infoshare's permission, I started a company in August 2011 that I called InfoConnection Limited ("**InfoConnection**"). While working at Infoshare I had developed good connections with the makers of other component software that formed part of the overall technology landscape. I came to know their products well and also knew the customers for these systems. InfoConnection was set up to provide a complete end-to-end solution that took account of all of the component software and integration services required to deliver the objectives of larger technology transformation projects. I continued to promote Infoshare's products alongside other symbiotic technologies.

7 InfoConnection gave me a good living, but I felt that it was never going to become expandable. It was a one-person business. I couldn't take on staff with the requisite knowledge or expertise and I was dependant on other companies' software which is something I had no control over. Therefore, whilst running InfoConnection, I also worked on a different project for a short period of time called Boox Limited and that is how I met the Fifth Defendant, Paul Careless ("**Paul**").

B2. Meeting Paul Careless

8 In 2013, an old contact from my banking days had set up an accounting software business (Boox) and approached me to ask if I wanted to join as a senior manager to run the business, as he could not do so while running his other business. I was keen to be involved as I thought it was clearly a company on a growth trajectory and it could take my career further than InfoConnection had. Unfortunately, I only worked there for less than 6 weeks as I was not the right fit for the business. However, in the brief time that I worked there, one of the things I did was to purchase a website for Boox called 'Ask An Accountant' from Paul. The idea behind using 'Ask An Accountant' was to link up small businesses that need an accountant at the time of their specific need. The accountant could give a free answer to the business then use the connection with a view to offering more services. It was a lead generation tool. Paul and I had a couple of meetings over the phone to negotiate the sale of the website to Boox.

9 During the course of those meetings, I found out that Paul was an expert in 'lead generation'. He had built numerous websites that engaged the consumer such that they interacted with the site and invited a response. Companies would purchase the consumers enquiry and contact details as a lead for their business development teams or the lead generation was used for inhouse business development. He had started other businesses with similar concepts such as 'Ask A Professional', 'Ask A Builder' and 'Ask A Surveyor.' He explained that some of those businesses were not doing well and he wanted to focus his energy on the most successful concepts which is why he had chosen to sell 'Ask An Accountant.' Paul and I were supposed to have a meeting to finalise the sale of 'Ask An Accountant' to Boox, but I had to call him to explain that I was no longer working for Boox and that he would be meeting someone else in my place. On that call, Paul said he thought I had negotiated well, that he liked my approach and he thought we should meet as there could be an opportunity to work together.

B3. Ask A Doctor

10 Whilst Paul didn't have a job to offer me at that time, we got to know each other and I enquired in more detail as to why he was selling businesses and what he planned to focus on. He told me about his military connections and his years at MoneyExpert.com. Paul described those as the formative years in making him successful. He said that he really wanted to focus on a business called 'Legal Care' which was effectively an 'Ask A Solicitor' concept. I asked if he had considered 'Ask A Doctor' which was an idea that really resonated with me and Paul agreed that it sounded like a good idea. He had a team that could build a website and help with setting up the infrastructure for the business. On that basis, Paul wanted to own 90% of the business and offered me a 10% shareholding, but I would run the business. I accepted. I liked Paul and the 'Ask A Doctor' concept. As promised, Paul pulled together the website, purchased the domain 'AskADoctor.co.uk' and the business got up and running. Ask a Doctor Limited was incorporated on 24 September 2013 and I was appointed sole Director.

11 Our first doctor to agree to work with 'Ask A Doctor', Dr Ronak Patel, invested in the business and became our Medical Director. Dr Patel was a triplet and both brother and sister were also Doctors who supported the business with their time, along with another GP I knew socially. I had daily contact with Paul, but given I was based in London and he was in Brighton, I would only see him in person once a month on average. Paul's role at Ask A Doctor was to lead his team in repurposing the back-office software for processing questions, to build the client facing website, to lead the digital marketing initiative and to support me as I sought to raise capital for the next wave of product

development and marketing. The Ask A Doctor business started well for a small team, but we quickly realised we needed significant investment, for example to be able to offer a video conferencing facility, and we simply couldn't secure it. At the same time, Paul's business 'LegalCare' was underperforming. Therefore, at some point in 2014, we decided to pivot our focus to something new.

B4. The Investment Experts

12 Paul had a great team working for him including Ryan Holdaway ("**Ryan**") and Ashley Newman-Jones on the digital marketing and tech development side. Paul had previously sold a lead generation business for mortgage advice to Shepherds Friendly Building Society. I knew about business development for financial services and I had instincts about what might work. For example, I knew that many Independent Financial Advisors (IFAs) lacked digital marketing and business development skills and therefore required help with generating new business. We decided to explore the idea of generating pension and investment leads for IFAs. Consequently, we created 'The Pension Experts' and 'The Investment Experts.' The basic idea followed the 'Ask A…' business model. People would enter their questions and contact details on the websites concerning pensions and investments respectively. This would create a 'lead' and we would then sell those leads to IFAs in a postcode close to where the enquiry had originated.

13 The Investment Experts taught us that we could offer more than just selling a lead. When a question was asked, we could follow-up to see if the person would be open to a consultation and revert to them with options. We grew a small team of back office administrators who packaged 'Letters of Authority' for on sale to pension consolidation companies. It was an idea that worked, but it was not generating lots of money. However, our conversations with IFAs had shown us a gap in the market for a new business. Smaller investment product firms who were not digitally savvy needed help to reach a customer base and build their brand. We realised that we could help these firms by building and improving their websites and help with targeted advertising and create digital promotional material for these firms. This combination of lead generation and brand promotion was the basic idea for the business that became Surge.

B5. Blackmore Bond PLC

14 One of Paul's other websites, Pension Advice Online, was selling leads to a pension advisor who put us in touch with Patrick McCreesh **("Pat")** and Phillip Nunn **("Phil")** at Blackmore Bond PLC in 2014, ("**Blackmore**"). Pat and Phil were both IFAs, and Blackmore was the first client of the new business model which became Surge.

15 Blackmore was a property developer and so needed large chunks of capital to buy land and pay for planning applications and development. Planning would often take a long time to obtain, but Blackmore had the security of the land and property being developed.

16 We were engaged to build a website for the Blackmore Bonds, design promotional literature, promote the bonds via digital marketing and to collect and process paper-based application forms. After only a short time, we built our fully online application process with integrations to selected third parties for compliance processing. Essentially, we provided an equivalent service to that provided for LCF. As we were just starting out, we did not know exactly what to charge Blackmore and it was a question of Pat telling us what he was prepared to pay us for our services and what we could accept, however I don't ever recall specific discussions with Blackmore on what our fees would be either because I wasn't at the meetings or if I was, I cannot

remember those details. By 2017, the majority of Surge's business related to LCF. We started out promoting both clients equally but LCF sold better, thus creating a better return on investment for Surge which in turn led us to reinvest in further digital advertising favouring LCF over Blackmore. An inflection point arose when LCF released an Innovative Finance ISA ahead of Blackmore (who were still waiting for authorisation from the UK Listing Authority, a branch of the FCA, for their Innovative Finance ISA), this product was hugely popular amongst investors and LCF started to grow much more rapidly than Blackmore.

B6. Incorporation of Surge Financial Limited

17 As referenced above, the work for Blackmore started with design and website building but quite quickly evolved into a larger software, digital marketing and back office piece. This felt like a milestone in the evolution of our business both in terms of the nature of the work we were identifying for ourselves and the client type. We decided to form a new company with a view to formally expanding this type of work and seeking to align ourselves with small investment houses. Surge Financial Limited, Company number 09395654 ("**Surge**") was incorporated on 19 January 2015. I became the Chief Operating Officer (COO) and Paul became the Chief Executive Officer (CEO). The COO title was to recognise my seniority in a business I had co-founded, but, the reality in the beginning was that we were both doing whatever needed to be done to get Surge up and running. In the early days of Surge, I could be doing anything from making tea, selecting software solutions, interviewing staff, writing proposals for prospective clients and designing the online application form process. Paul is a visionary and was focused on the strategy and future potential for Surge. He is also a talented leader and was able to motivate our small team and keep up moral through hard times when we were a small and lean start up. Paul and I agreed from the outset that he would be a 90% shareholder and I would be a 10% shareholder as we had been with Ask A Doctor. I was initially registered as the sole shareholder and Director of Surge because it had been my responsibility to undertake the administrative task of setting up the company and Paul and I simply didn't get around to updating all the paper work straight away.

18 We had been using my company InfoConnection to run our pivot away from Ask a Doctor and Legal Care. My software consultancy business had now run down, and this offered us the convenience of a pre-existing entity to repurpose and use for this new venture. Another advantage was that it already had a bank account and so was established and available. Because of this, before we had incorporated Surge, and for a short time after, we were using InfoConnection, to employ the development team and pay outgoings for the business that evolved to become Surge. This was the case for early work with Blackmore (and later LCF) while we transitioned the business functions and employees over to Surge. There were no formal arrangements between InfoConnection and Surge in this regard.

19 In the early stages, funds for Paul and I were extremely tight. I was living on savings and so was Paul. We went into this venture knowing that we would remunerate ourselves when we could, once overheads were paid and the business could afford it.

20 Decisions as to remuneration were made by Paul in his role as CEO and he would discuss Surge's finances with Steve Jones ("**Steve**"). Steve was Paul's former bank manager and came from a long career in banking. He was an excellent fit for our business from the outset and quickly became instrumental as Finance Director for InfoConnection and, subsequently, Surge. Steve handled all the financial aspects of our business and controlled the bank accounts. Whilst I wasn't aware of exactly how much Paul was receiving from the business, this never concerned me as he was my

trusted business partner and I always felt adequately remunerated. In the early days, the business didn't have a lot of money and I was paid what the business could afford. As profits started to improve, I was paid more. My salary was aligned with those in the senior management pool and the way bonus was calculated often varied as it was at times based on individual performance and other times based on company performance. For salary, bonus and dividends, I understand that Paul would discuss with Steve what Surge could afford and then Paul would decide on those aspects as CEO. RP Digital Services Limited (Company No. 09709854) ("**RP Digital"**) was a company owned by Dr Ronak Patel. Ask a Doctor hadn't worked out, but Dr Patel said he wanted to join us to do something entrepreneurial. Dr Patel was Paul's personal friend and he wanted to help him. Paul helped Dr Patel set up RP Digital which was pure digital marketing.

C. THE INTRODUCTION TO LCF

C1. John Russell Murphy

21 The introduction to John Russell-Murphy ("**John**") came via Ben Beal ("**Ben**") which I believe was in late 2014, but could have been early 2015. Paul knew Ben socially, although not very well. I understood from speaking to Paul, that he had bumped into Ben at a supermarket checkout and during the course of catching-up, Paul had mentioned he was now doing tech, digital marketing and lead generation work for financial services. Ben claimed to be well connected in the world of finance, and for a brief period we explored the possibility of paying Ben a 20% commission if he could introduce a financial product joint venture partner to Surge. However, the proposal for which we engaged Ben never went anywhere, and Ben later sued Surge claiming our relationship with LCF had met the terms upon which Ben was engaged. That claim was ultimately dismissed by the Court.

22 At the beginning of the relationship, Ben mentioned his connection to John and agreed to put him in touch with Paul. Initially, John started purchasing leads from The Investment Experts but also had good connections to different investment companies. It was John who knew Spencer Golding ("**Spencer**") and Simon Hume-Kendall ("**Simon**").

23 We knew that John had been an IFA, that he had trained with Barclays and worked at J.Rothschild Assurance Group (now known as St. James's Place) for a while. When we started working more closely with John, we discovered he was not FCA registered. John explained to Paul and I from the outset that as he was now working with unregulated financial products, it wasn't necessary or worth keeping up with his FCA registration because it was not a requirement for alternative investments and this had become his niche. He was clearly experienced and I accepted his explanation for why he did not have an FCA registration.

24 John set up a meeting for February 2015 with a group who he described as some serious investors who had a portfolio of opportunities, including Sales Aid Finance England ("**SAFE**"). Other than conducting some cursory internet searches, I knew very little about who we were meeting, but we were excited at the prospect of new work. From what we knew, working with SAFE was an opportunity we were interested in as I felt it was something relatable. It was a business lending to other UK businesses, and we thought that this was marketable as the general public would be willing to invest in this type of business.

C2. First meeting regarding SAFE in February 2015

25 The first meeting regarding SAFE was on 25 February 2015 in a converted barn in Crowborough. I remember it was a beautiful barn converted into offices and we were all sat around a table in a board room with a large glass wall with views across the countryside.

26 In attendance was Simon, Spencer, John, Paul and I. I believe Elten Barker ("**Elten**") was there, but I am not as certain of that as it could have been a later meeting when I met him. Ben was supposed to attend, but was unavailable on the day. Spencer and Simon had quite different personalities, but it was clear from the discussion that they had multiple business interests together. Paul asked Spencer about his background and Spencer said he started out as a builder, worked on bigger projects and subsequently became a property developer. He owned the barn and the land around it. Elten was introduced as Spencer's long-term friend who had also worked with Spencer, but he seemed to be in more of an administrative role. Simon was smartly dressed and presented as a professional, we knew he had previously held a senior position within Clydesdale Bank. The two individuals clearly in control of the meeting were Spencer and Simon, and John seemed to work for them.

27 I recall there being some uncomfortable moments in the meeting. Simon and Spencer had a few different business interests that they wanted our help to promote. Simon's real interest was an oil bond, but Paul and I thought that this was less attractive than working for SAFE because we couldn't see that the public would be interested in an oil bond; it seemed too speculative and risky. Simon tried to give Paul a prospectus for the oil bond to look at, but Paul did not take it as he said he didn't need to. I could see that moment had caused a little offence, and, given we wanted to walk out of the meeting with business, I remember trying to placate the situation by saying I would take a copy of it instead. Spencer talked about property development and Simon also mentioned property investment in places like Cape Verde.

28 At the time I was not concerned with who owned what business, and what their respective roles were for each business. They all seemed to have some knowledge and involvement. I only wanted to understand if there were any services we could offer to assist them.

C3. Early work for LCF

29 The result of the February 2015 meeting was that SAFE agreed to test us on lead generation. Having seen my email to Paul dated 25 February 2015 (SUR00000911), I recall that I discussed what was to be paid for this lead generation work with Ben. We sent leads to John and he would provide feedback on the quality of the leads to Spencer and Simon. As soon as we started sending leads, I dealt with John and not Ben. John determined that the leads we had provided from The Investment Experts were brilliant quality. Within a couple of weeks, John had worked on our leads and things started to move quickly once SAFE saw that the leads were converting. We learnt through dialogue with them, and from conducting similar work for Blackmore, that we could help them to do things better. SAFE had been going for about 18 months and I understand that they had raised about £2m before we ever got involved. SUR00000911-0001

30 SAFE's growth was hampered by its reliance on IFAs. An IFA may see 3-4 people a day and this high-risk product would only be shared with a small proportion of those clients if they met the risk profile. Speculatively I would guess that an IFA might

recommend the product to only 5 people a week. We knew that digital marketing had the potential to show thousands of people the same opportunity directly.

31 Our first opportunities with SAFE came in scraps. Our initial scope of work was to help it rebrand, update the website and update its marketing materials. Paul and I discussed what we would like to charge for this work and ran it by John who acted as a go between, relaying our request to the LCF team and confirming acceptance. For example, we told SAFE we did not like the name 'SAFE', because it was inappropriate for an investment product. I do not recall who came up with the name London Capital and Finance. We had lots of conversations with John (after the first meeting in February 2015) who was the channel of communication between us and SAFE. John would sound them out to see if they liked our ideas on points like the name change. We wanted LCF to have the feel of a financial institution. Their branding was very novice.

C4. Meeting Andy Thompson

32 The first meeting with Andy was after we had completed some of the initial work for SAFE. Up until that point, John had been our main point of contact and he was giving feedback to Andy, Simon and Spencer. It was only when they were satisfied with the quality of the leads we had produced that we were introduced to Andy in the summer of 2015. I believe that was shortly after SAFE had changed its name to LCF. I don't remember a lot about the first meeting with Andy, it was held at John's offices in Eastbourne. I recall thinking that this is the man on the ground and it was a good opportunity to get to know him and ask him some questions. We met him at John's offices a few times as we learned more about SAFE from Andy and shared what services Surge could provide as we continued to pitch for additional work which would expand the scope of services. Whilst these meetings generally took place in Eastbourne I did travel to Andy at the SAFE offices which were in the same barn in Crowborough; Andy was in one wing of the office with Katie Maddock. I went there with the existing promotional materials for SAFE and discussed our ideas on how to improve it.

33 Paul and I had lots of ideas beyond the name change. One idea was to improve the website and have a capability for people to sign up and invest online. I remember asking Andy why SAFE hadn't considered doing this up to now. In response Andy said that there was no reason they couldn't do it, but they thought it would be too expensive to set up and they were not as plugged-in to digital marketing in the way that we were. Andy seemed excited by our ideas and even part paid for some work in advance of it being done to help us stay afloat until the work was completed. I cannot remember what we charged for this initial work, but invoices generated at the time would confirm the amounts.

34 John had briefed us before meeting Andy so that we understood the SAFE business model. For example, John told Paul and I that there was a firm of solicitors called Buss Murton who would not release the bondholder money to a borrower company until security was in place. Another firm of solicitors, Lewis Silkin, were involved in drafting the Information Memoranda (**"IM"**) and SAFE had a consumer credit licence in place which I knew from looking at the FCA website. With the exception of one conference call with Graham Reid which I think took place in 2017 regarding the draft contract between Surge and LCF, I had no other direct dealings with Lewis Silkin during the time that we worked with SAFE/LCF. However, I was very aware of them as Andy would refer to them frequently in different contexts. The way John explained the business model gave us confidence in the product and the CVs of those involved such

as Simon's impressive career including a post as Regional Chairman of Clydesdale Bank and as Vice Chairman of Crystal Palace football Club all worked to give the impression of credibility and gravitas.

C4. External oversight of LCF

35 We were told by John that there were appropriate checks and balances in place early on and we believed that. Lewis Silkin were often referenced by Andy as they produced the IMs. Andy would regularly refer to them in the context of things like the LCF ISA that came later on, as that IM was also written by Lewis Silkin. I understand that Lewis Silkin also did all of the verification process for LCF, but in the capacity for which we were engaged by LCF we had no right or expectation to see any of that. I am not legally trained and my limited understanding of how the verification process worked in this context was that for any claim made in an IM claim as being a factual statement it had to have a document from a credible source that evidences it. Lewis Silkin produced those verification notes which I understood to be a pack of documents that process the authenticity of what has been said. I learned this through working with Blackmore who went through the same process.

36 I believe Oliver Clive and Co were LCF's first auditors and John knew them and thought they had a good reputation. Every question we had for John about LCF, he was able to answer, and we felt satisfied LCF was an investible proposition. What LCF was doing, secured lending to businesses, made sense to us.

37 From 2016 onwards, the greatest comfort for me came from the involvement of two of the 'big four' auditors, PwC and Ernst and Young (**EY**). These are decent, well respected, firms. We knew that if they had audited LCF and, on seeing material we were not privy to regarding the internal workings of LCF, were satisfied with it, then we could trust that. I knew that PwC and EY were an additional layer of checks and balances. I don't know the minutiae of what an auditor does, but I take it on face value it is a secure additional level of checking by professionals who are appropriately accredited and qualified. I never needed to know more than that in my role. It was enough to know LCF was being audited by independent professionals. The EY audit in February 2018 stated that the level of security was worth four times more than the money lent to borrowers and I believed that we were working for the best mini bond in the UK market next to Wellesley. I remember reviewing the EY audited accounts and having a few questions for LCF. I clearly recall and have seen the transcript of a recorded telephone conversation between Andy, John and I on this subject on 22 February 2018 when we discussed the draft contract between LCF and Surge and then our questions on the audited accounts (SUR00125399). SUR00125399-0001

38 From June 2016, it was also a comfort to know that LCF was FCA regulated. I was aware that mini-bonds were not regulated products, but the fact that LCF was a regulated firm reassured me. When they obtained additional permissions from the FCA to also sign off their own s.21 promotions this was a real feather in their cap. I did not know of any other mini bonds that had acquired this status. Blackmore, for example, had to go to a regulated third party and pay fees for the s.21 sign off work.

D. SERVICES PROVIDED BY SURGE

39 As CEO, Paul was always more in control of any decision than me albeit I had an influence. Everyone looked up to Paul and trusted him. He would come up with great innovations for the business that we wouldn't have thought of. Paul wasn't deeply involved in the detail of Surge's business as he couldn't be. His role demanded that his time and attention was focussed on innovation, strategy, motivation, leadership and

taking the business forward. I was focussed on operations, business systems, influencing client product strategy and managing our relationship with Blackmore. We had staff who managed the in-house LCF and Blackmore teams and Paul was kept abreast of all issues in regular team meetings.

D1. Surge's Fee

40 When we started working for LCF, John was already being paid 20% commission by LCF for investor introductions and, given that he was the main conduit between Paul and I and LCF in the early stages, John helped Paul to negotiate a fee of 25% for Surge's services and I believe that negotiation may have been with Spencer although I was not present when the meeting/negotiation took place. We were already charging Blackmore 20% for similar services and I understood that to be the ballpark going rate at the time. For example, in the early days of working for LCF, I do remember meeting with a big mini-bond issuer, Dolphin Trust ("**Dolphin**"). Dolphin asked us to promote their bonds, provided us with their literature and set out what they were willing to pay us. The fee they were proposing was on a sliding scale that increased based upon the amount invested, and that went up to 20% maybe more. Whilst I do not recall exact details, I do recall being approached by other bond issuers asking us to promote their services and offering payment in the range of 20 to 25% just for introductions. Many didn't have an online sign up route – Dolphin, for example, dealt with all applications on paper.

41 After the initial work for LCF was complete at the end of July 2015, I asked Andy if we could put a contractual arrangement in place between Surge and LCF. I don't recall any exact dates without reviewing contemporaneous emails, but it was from this point onwards that draft agreements started to go back and forth between myself and Andy over the course of many months. In any event, from the outset, there was the verbal agreement reached between Surge and LCF that Surge would be paid a fee of 25% for its services, which were the same as the services offered to Blackmore. As mentioned above, I wasn't there when the fee was agreed but I believe the negotiations took place between Paul, John and Spencer.

42 The fees Surge charged LCF between 2015 and 2019 didn't vary from the 25%, other than in the case of one bond series for which I believe we agreed to a lower fee. We wanted LCF to consider doing a one-year bond as the public generally did not like their money to be tied up for too long. Andy explained to us that the business model doesn't work so well on a one-year bond as some of the loans needed more time for the borrower businesses to generate profits and make repayment. Andy was reluctant, but said if he could crunch the numbers and make a one-year bond work he would do it. He wanted to cap it as he did not want millions to go out in one year if all investors would want to redeem after one year. We did the research that more often than not, investments did roll over and ISA's stay invested for 13 years. Andy said he needed to pay us less on a one-year bond and I do think we agreed a slightly reduced fee at some point, but I cannot remember exactly if that was for the one-year bond, it might have been for a compounded interest product but my memory fails me probably because I was not involved in that agreement. I do remember talk of charging less if an investor did not roll on, but I don't remember exactly what actually happened.

43 As LCF and Surge grew, I remember there were multiple occasions when Andy said things like "we are at bigger volume now and Surge's fees are really high". He often asked us to reconsider our rate of 25%, but we held our ground and said we are providing an excellent service for LCF. These negotiations with Andy were mostly at

face to face meetings that I attended with John and Paul, and Andy did not ever force the issue.

D2. John's role at Surge

44 In 2015, John already had a sales team and was selling SAFE bonds. Paul and I realised early on that if we joined forces with him, we could offer a client more. We could take our services from lead generation, website design and promotions a step further and offer an end-to-end solution dealing with all the digital marketing but also providing the back-office function and sales team. John had expertise that Surge was missing and we quickly realised that to move forward it would be a good idea if we worked with him. Surge was a tech, design and marketing business and whilst Paul and I had sales skills, we had never sold an investment and that had been the basis of John's career. I don't remember if a joint venture arrangement between Surge and John was seriously considered, but what actually transpired was that John worked for Surge as a Consultant rather than being an equal business partner.

45 John was never a formal statutory director or a shareholder of Surge and although John liked to call himself a partner or Sales Director, there was never a formal contract or appointment in place with him. John didn't push Paul to have a contract in place either and I think that is because in the early days we were all testing the water with each other. John also had his own smaller ventures that he was working on at the time. There certainly wasn't any friction over it as there was trust and understanding between us that the business was evolving and we didn't know who should own or be doing what in the beginning. At first, John was dealing with the sales element and we were dealing with the digital marketing and tech. We just didn't know which piece would end up being more valuable, so the relationship with John was intentionally fluid. As Surge evolved, John's promise of a high-quality sales team did not materialise. Paul and I wanted to bring in new, better quality staff. As a result, lots of the sales team that started out with Surge having worked for John were subsequently dismissed by Surge and replaced with staff that we thought were better qualified for the account manager roles. I believe this would have been in 2016.

46 John's remuneration was at Paul's discretion and was based on his individual and company performance. I wasn't involved in that decision-making process and I didn't feel I had any role to play. Paul took the lead on that and I didn't challenge it because I trusted Paul to remunerate John fairly for his work.

47 John, Paul and I made recommendations as to the marketing material for LCF and marketing strategies executed by Surge, but ultimately it was LCF's decision as to whether they would approve our recommendations. John was the one speaking to the public (as opposed to Paul and I) and he often would pass on details to the team at Surge and LCF on what the customer base would want to see. For example, John pushed for changes to marketing materials like adding the biographies of LCF's key staff to the LCF website, as he knew the customer base like to know more about the people behind a business. Ultimately though, every decision was subject to LCF sign off, particularly, from the Series 3 bond onwards, when all marketing material received s.21 FSMA sign off from LCF's Compliance Officer, Kobus Huisamen ("**Kobus**"). I believe LCF used a company called Sentient for compliance matters initially and that is how they were introduced to Kobus as an employee of Sentient. Early in the relationship, I forget exactly how long, Kobus became the in-house compliance officer at LCF. The Surge team, myself included, would pitch marketing ideas to Kobus and would regularly be met with push-back as to what we could and could not do.

48 John's area of expertise was sales and his primary role was fashioning how the account managers should communicate with the public and how Surge could develop that team. Paul and I were involved in decision making concerning the account managers, but would often be guided by John's expertise. John also had the stronger relationship with LCF and we wanted to maintain that very important client connection and relationship. John and Andy got on well and knew each other socially, whereas I always felt that my relationship with Andy was awkward and fraught. I think this is best demonstrated by the difficulties I encountered with Andy when trying to settle on contractual terms between LCF and Surge.

49 It was through John that Paul and I met Joanne Baldock ("**Jo**"). Jo was involved from the second or third meeting with SAFE. I believe that Jo was the mortgage advice arm to John's business. They worked together as a team, shared an office and had a working friendship. Jo became part of the Surge business, along with a collection of staff that had worked with John and Jo for some time. As mentioned, the staff that joined Surge from John and Jo's team were not very professional or impressive, for example, being too casual on the telephone, and after a short space of time Paul and I had dismissed quite a few of them and recruited better quality staff.

D3. Draft contracts between Surge and LCF

50 Surge was a start-up business, and there was a degree of informality at the beginning. The first time I asked Andy for a formal written contract between LCF and Surge was in July 2015. We had already agreed the 25% fee by this point. I asked him if he had a standard introducer agreement we could review. There was already a verbal agreement in place and, as Paul is not contract driven in the way he works, the process of getting a written contract in place moved slowly. What prompted me to ask Andy was mainly out of a concern to protect Surge's rights. The business relationship had evolved quickly. What started with building a new website and rebranding progressed to building a bespoke online sign up process for LCF and my concern was to protect our Intellectual Property (IP). Therefore, I was motivated to record the relationship with Surge and the services we were providing within a contract. Having seen my email dated 29 July 2015 to John and Andy, I recall that I was the first to ask for a contract between Surge and LCF and by an email dated 3 August 2015 (SUR00001538), Andy supplied a first draft (SUR00129263). I believe we both sat on that draft for a while until Andy chased me because of the prompt he had received from PwC.

SUR00001538-0001

SUR00129263-0001

51 I understand that in September 2016, LCF's auditors, PwC, noted that Surge was a material supplier to the business of LCF and there should be a contract in place. This prompted Andy to provide us with a new draft contract and, naturally, we wanted to seek advice on it. The contract he provided was a different version to the one circulated in 2015 and it didn't cover some of the key terms like the services Surge provided or protection of our IP. I recall that he was under some time pressure to send the executed contract to PwC. Therefore, I amended the contract to reflect the terms that Surge would be willing to sign up to and, in the interest of speed, signed that document having accepted my own tracked changes. Andy never sent me a countersigned version and I therefore assumed that PwC were never provided with an executed contract between LCF and Surge.

52 Much time went by without having an executed agreement in place and in hindsight I recognise that this was unsatisfactory, but we were a rapidly growing business that went from 3 staff to 60 staff in a short space of time and my attention was needed throughout the business.

53 I believed that before LCF's next audit in 2017, Andy would need to supply an executed agreement between LCF and Surge to his auditors. Andy and I had not been able to agree on the previous contract and in my opinion, it was lacking in detail. LCF had grown to be a significant portion of our income as a business and the previous contract was off the shelf and potentially lacking. I decided to invest in professional advice from the legal firm Macfarlanes and they drafted a bespoke contract specific in detail to the relationship between Surge and LCF. Macfarlanes prepared a whole new draft services agreement for us to send to LCF. In June 2017, I sent the draft contract to Andy for his consideration. He said that he would need Lewis Silkin's advice on it and I agreed that was fine.

54 Andy didn't like the Macfarlanes draft and disagreed with us on ownership of certain IP. Whilst we accepted LCF owned the website, the IP in the plug-in to the website (the sign-up process and back-end dashboard) belonged to Surge because that was software we had built with the intention of using it for other clients and it was also used for Blackmore. Andy didn't follow-up with us regarding the Macfarlanes draft which I thought was strange. I remember thinking that the 2017 audit would be due soon and we hadn't finalised the contract and so I nudged him on it in February 2018 (SUR00092855). Andy eventually said his lawyers needed to redraft the Macfarlanes contract. We had to look at his contract and go back to our contract and have conference calls about the changes he wanted and the implications. In the end, we simply couldn't agree on terms. SUR00092855-0001

55 It was only in 2019 that I discovered from LCF's administrators that someone had taken my signature from the signed version I emailed to Andy in 2016 and appended it to a different version containing terms Surge had not agreed to. I was shocked that someone had done that. With the benefit of this knowledge, Andy's reluctance to agree contract terms in 2017 made sense when I assume a falsely executed version had already been provided to the auditors without my knowledge.

D4. Services provided to LCF - Marketing

56 Surge charged LCF a set percentage of 25% of funds raised, but Surge was responsible for LCF's entire marketing and development cost and customer services call centre staff. That was a huge risk for us. If we achieved no sales, we would still have to meet the substantial marketing and development costs as well as pay our staff. At Surge's peak, marketing was the most significant cost to our business next to the premises and staff overheads. We did not share our business costs with LCF and neither were we asked to, this information was considered confidential and relevant only to Surge's senior management. For all of LCF's marketing material there were two sign off points. The first was Andy, as it was his business and he wanted to approve how his business was being represented from a commercial perspective. The second was Kobus, who was regulated to approve for s.21 sign off under FSMA. As with any creative process for a client, we had to show and share ideas with LCF and then they gave us feedback on the things we needed to change including for compliance reasons.

57 Surge regularly looked at competitor rates in order to check that LCF remained competitive in the market, and we would propose rates to LCF but, ultimately, we had no control over that aspect of LCF's business. Regardless of what Surge suggested, we understood and accepted that LCF had its own cash flow modelling and only it knew what loans were maturing and when, and what LCF could pay on a bond. That kind of information, and those level of decisions, were something Paul and I were simply not privy to. Our capacity was to provide services in relation to new client

acquisition and onboarding and we were not involved in LCF's core business which was deploying the investor funds by lending money to businesses.

58 **Lead generation work:** We provided a digital route to marketing with a digital marketing campaign. This was an extremely expensive service to provide because alternative investments are by nature a higher risk product issued by a lesser known Company. The public has less of an appetite for this type of product and therefore many thousands more people will have to see the advert before one makes a purchase, when compared to more conventional investment products issued by well-known financial institutions. At peak, Surge spent £1m a month on Google AdWords alone.

59 **Adverts and Google searches:** We would mock up advert designs for both online and traditional media that we thought looked good and sent them to LCF for sign off.

60 In particular, it was Surge's responsibility to manage the paid search campaigns and the paid search budget. We had in-house Google experts like Ryan who would manage the campaigns. Ryan optimised for search terms, constantly analysing traffic and competition and working to achieve the best return on investment from our marketing spend. The correct procedure was for the actual adverts to be signed off by LCF before going live.

61 **Marketing Videos:** In early 2016, we made a promotional video for LCF. The videos were our idea as we wanted to show people something a bit more engaging on the website. We told LCF what we wanted to do, but the script was signed off by them and they had to be happy with how we had presented the brand.

62 **Information Memorandum (IM) and Brochures:** IMs were written by Lewis Silkin and provided to us by LCF. All brochures and other marketing material had to be based on information contained in the IMs that were already signed off. Brochures were prepared by different members of Surge staff over the years, including myself, and we had an input on the content and graphic design for those, with the exception I think of the very first brochure where LCF had its own graphic designer, Rocky O'Leary. For the earlier bond series, we would prepare the brochure with more freedom in a style that was still accurate to the content of the IM but more accessible. We had three graphic designers working in-house. We would then present that to Andy and Kobus at LCF (and only Andy for the first IM as Kobus was not involved) who would make changes and then give their approval. With later versions of the brochures, the s.21 sign off rules tightened and eventually the brochure had to be almost a mirror of the IM in terms of content. I read the IMs and as they were prepared and signed off by LCF and its lawyers, I accepted that the contents were correct, compliant and not misleading in any way. It was not for Surge to question the contents of an IM when it was ultimately a document that had been created with the help of experienced lawyers and signed off under s.21 of FSMA. I understood that the process of sign off for s.21 included that all facts, figures and statements made in the IM had to be supported with evidence before the IM could be approved. I liked the fact there was regulatory oversight and that gave me comfort that checks and balances were in place.

63 Eventually, we did try to get more involved in the creative process for an IM and that was at the time when the LCF ISA came along in December 2017. One of the key differences between LCF and Blackmore was how collaborative they were. Blackmore were friendly and more willing to collaborate with us whereas LCF would often just direct us to do something. For example, LCF would say "here is the IM", but Blackmore would say "we are making a new IM and do you want to read it and suggest input for

it". Blackmore invited me to meetings and I sat with them and their solicitors where I learned about their IM, what was needed to offer an ISA and how the s.21 FSMA rules worked and had tightened up over the years. If the marketing materials could only be a regurgitation of what was in the IM, then I realised that we needed to at least suggest wording that was easy to understand, rather than just being filled with technical legal language. I asked Andy if Surge could propose text for the IM for consideration and that was as far as our input into the IMs went.

64 It was only in the very early days that Spencer and Elten had any input in the marketing brochures Surge produced because they both attended the early meetings. We would share the design work for their input and Elten was a good proof reader. Andy was usually slow to respond or action emails and, therefore, we would often go to Spencer to move things forward as from the outset we thought Spencer had a pivotal role in the business. However, Spencer and Elten stopped being involved in any decisions about marketing materials when Andy told Paul and I to stop sharing information with Spencer in January 2016. Andy reiterated that he is the CEO of LCF and that whilst he has an excellent working relationship with Spencer, it is categorically not Spencer's business and therefore not appropriate to share information about LCF with Spencer. We, of course, listened to this but it was slightly surprising given that Spencer had been invited to so many key meetings by Andy and appeared to take a leadership role. I got this impression from the way Spencer held court.

65 It is specifically alleged that I plagiarised LCF's ethical lending policy. I would not have plagiarised any material. I would have produced material for LCF in my own words.

D5. Services provided to LCF - Technology

66 Surge used a basic Customer Relationship Management system ("**CRM"**) to log bondholder information for its clients LCF and Blackmore. We quickly outgrew the basic system and invested in a superior technology from Salesforce. This new system had a better level of granular detail security, enhanced reporting and integrated with third party applications such as call recording software. I negotiated the terms of the agreement between Surge and Salesforce and signed the contract with them. Salesforce is a system that doesn't come ready made, it required configuration to make it suitable for Surge's use and I worked with the external third-party developers on that. It was a Surge system used for all Surge clients (including LCF). I believe LCF had their own in-house CRM system to manage the aspects of bondholder back office work that fell due on their side of the fence. We had no sight of their system and they had no sight of ours. Should they request any information about their clients that was held in our system, we were happy to disclose it by generating any reports as needed.

67 Surge employed a permanent team of developers to carry out a number of tasks and integrate our different systems. The developers built and maintained our clients' websites, developed our proprietary website plug-ins which enabled the public to apply for the bonds online, enabled third party integrations with software for compliance checks and built a bespoke back office system that sat between the customer facing website and the CRM, and was used to carry out checks and balances relating to anti money laundering for new client onboarding.

D6. Services provided to LCF - Account management

68 **Back Office:** After a time, Surge went on to provide a complete back office solution for LCF which was a big operation. There were approximately 40 staff working on LCF and it was in all different areas of expertise. Surge was not just LCF's marketing company; we had an army of staff to answer all client facing questions, to process

applications, including the detailed paperwork needed to transfer an ISA for example. LCF's telephone number went to our office so that any issue from customers or the general public was processed by Surge. We were also asked by LCF to prepare paper versions of the application forms, and so we dealt with paper-based applications as well. We would have preferred everything to be digital, but we realised that some people preferred the old-fashioned method and LCF requested that we keep this accessible by facilitating this route.

69 **Visiting investors:** It was highly unusual for anyone from Surge to visit investors. Face to face visits were only offered to high net worth investors who would expect a higher quality of service and had the ability to generate enough income to justify the additional level of service. As John was previously an IFA, and had the most sales experience, he would carry out that work. When John had visited a high net worth individual, he would be required to log the visit in our CRM system. The rest of the account managers were office based and used the office phone. Although not a regulatory or legal requirement, all calls made to and from an office phone with customers were recorded to ensure adequate compliance monitoring by a member of Surge's staff.

70 **Account Managers:** The account managers answered all questions from the public regarding LCF. The account managers could be asked a range of questions about the bonds, such as when the term of a bond would expire. Equally, they might be asked something administrative or technical to do with our system, such as if an ID document would not upload. The account managers dealt with any kind of public facing enquiry about the business.

71 We took compliance very seriously and particularly as the business grew in size we knew that monitoring our account managers for compliance purposes was of paramount importance. We knew that we couldn't do anything that could be construed as advice and, therefore, we wanted to be sure that account managers were being clear, conducted themselves professionally and were not misleading. Therefore, we had a stringent, multi-layered, monitoring system in place to try to prevent account managers from making representations outside of LCF's approved parameters.

72 Training was provided to all account managers by the Surge leadership, our external compliance training provider, Thistle, who provided online training modules and by the compliance team at LCF. The training Surge provided was in areas like, how to use our systems, how to conduct yourself in a professional friendly manner, and our HR policies. Account managers were provided with all of LCF's materials including the IMs, brochures, advertisements, website materials and LCF approved scripts for calls. All account managers would be required to read everything and would then be tested on the material by Surge to ensure they had the requisite level of understanding. Jo would keep examples of good quality calls and account managers were required to listen to those. Kobus and Andy would visit the office every few months, to tell the whole account management team what was going on in the business. Kobus would visit to give specific training sessions to the entire team.

73 All account managers would shadow a more experienced member of the account management team before we were confident they could answer a call alone. For the first few calls an account manager answered alone, they would do it with a more experienced person present. Jo and John were the leaders of the account management team and they both sat amongst the account managers in the open plan office regularly giving them ad-hoc feedback, guidance and training by being present and overhearing conversations.

74 We recorded all calls to ensure ongoing compliance monitoring. Surge had an internal compliance officer, Rebecca Morley Wilson, who would monitor calls concerning LCF and Blackmore for quality control purposes. I did not have day-to-day involvement with Rebecca, but I believe that she reported to Jo. The role required that the call be scrutinised to ensure key standards were upheld. LCF provided us with a checklist. The checklist maintained that calls were scored against LCF's compliance requirements and against customer service expectations set by Surge. Non-compliance resulted in further training, disciplinary action and or referral to LCF.

75 LCF independently monitored our calls. I forget the exact number, but they took a sample of calls per month per account manager, subject to random spot checks and we were then provided feedback on any further training requirements. LCF would direct us as to how to answer questions from the public about them. Every answer cannot be fully scripted as the public phrase questions differently, but the account managers were given model answers and told to answer a question using a version of these model answers but in their own friendly and appropriate way. As part of his feedback on call monitoring, Kobus would train staff about the right way to handle calls and he would give us feedback. Kobus was often the final say on compliance matters with occasional input from Andy. For example, Kobus might get a letter from the FCA to LCF, and he would direct us on what, if anything, needed to be changed in the work that we were doing to deal with any issue raised.

76 If an account manager was found to be non-compliant, the usual remedy would be that they were taken off of the phones and provided with additional training. Whilst there were not many instances, I do recall there being some disciplinaries. For example, I recall that Scott Allan was taken off the phones for a period of time and had to go through further training. There was a system in place if someone went off script so that they were pulled up on it.

77 Further, bonuses for account managers could be, and were, taken away for non-compliance, although that penalty came later when the Surge compliance function was more established. The bonus structure for account managers often changed month to month, as we were experimenting with what worked and what did not work. Bonuses were an incentive for account managers to perform well and we tried lots of different ways to incentivise the team with bonuses based on teamwork and the collaborative total income or on individual performance based on each person's personal results but there would be a claw back or the payment could be defaulted depending on compliance scores.

78 Surge had an external compliance training function provided by Thistle who provided online training modules for account managers to complete on topics like anti-money laundering (**"AML"**). At the start of 2017, Surge commissioned Thistle to undertake a compliance analyses for Surge; they reviewed all business systems and processes with a view to providing feedback about any areas where enhancements or best practices could be introduced. Thistle were aware of our 25% fee structure and made no recommendations for any changes in this area. In 2018, Surge consulted Thistle again specifically on the subject of whether Surge should become an Authorised Representative.

79 All money from bondholders went straight to GCEN for LCF. Surge did not handle any bondholder funds at any time**.** GCEN conducted the AML work by checking things like ID documents, addresses and that vulnerable people were not being mis-sold. I believe that GCEN would call everyone over a certain age that could be considered vulnerable. Separately, GCEN also conducted its own random spot checks on Surge. If there were

any follow-up actions from GCEN for Surge, these would have been communicated to Jo, I think via Kobus as opposed to directly from GCEN but I am not 100% certain as I was not privy to these communications.

80 By providing the level of service we did, I felt like we were doing a lot for LCF for the fee charged. We could have separated out the functions into separate service contracts as I later came to understand many other businesses have done, for example with separate contracts for each of the marketing work, the bespoke technology, the account managers and the back-office function, but it was straightforward to charge LCF a flat percentage in the way that we did. I knew that Surge was profitable, but I was not always on top of the exact numbers because I didn't need to be. Steve and Mark Partridge, our external accountant, dealt with that aspect of the business and I trusted that if there were any financial issues for Surge that required my attention, I would have been made aware of them by Mark and Steve. Since the collapse of LCF and the media interest, our fees have been criticised for being high. As stated, we only charged based on success and yet had to carry significant overheads and up-front costs of marketing; Surge took on the risk and did far more than just introduce investors to LCF.

D7. Billing LCF and Surge's expenses

81 Our invoices to LCF were quite regular, more than once a month I think. I was not as involved in that side of things, so I cannot confirm the regularity with exact clarity. We invoiced regularly as we needed steady cash flow to meet our significant overheads like the staff, office and advertising costs. We had an expensive office building and lots of high quality staff that were paid well. For example, an account manager would usually be earning £40,000 a year with the more senior people on £100,000 a year. Our staff had mostly joined from banks with respectable salaries and so to attract them to Surge we had to offer good renumeration. Surge's office was extravagant as we wanted to create a special and inspiring working environment, like Google. We had a chef make breakfast for our staff every day and serve coffees throughout the morning. We wanted to be an exciting and attractive employer. One of Surge's biggest expenses was the Google adword fees. In total, I think we spent c. £20m on Google ad words in 5 years and at its peak we were spending £1 million per month on Google adwords. This was a risk for us, but the return on investment proved this acquisition model was viable.

82 I think the process for raising an invoice would be that Jo gave a report to Steve and he would generate the invoice to LCF. We had regular inflows from LCF which allowed us to settle our costs and keep the business running.

D8. LCF's Security

83 Early on in the relationship with LCF (mainly between 2015 and 2016) it was John that reassured us that LCF had a system of checks and balances in place regarding LCF's security. John told Paul and I that borrowers of LCF had to pass due diligence that was overseen by Buss Murton Solicitors and security had to be in place before any loans were made.

84 At the beginning, I had understood that LCF lent to an array of SMEs, charging high interest rates as they typically fell outside of high street banks more restrictive lending policies, but were always able to give security. I knew Andy had a background in banking at RBS. Andy explained to me that he followed a similar vetting process to RBS (an employer we had in common which prompted the conversation). He would

scrutinise borrowers by looking at the financial viability of the business and available security and then made a decision on whether or not to lend.

85 We did find out in December 2015 that LCF were only lending to a small number of companies that were related. I had forgotten the details of these humble LCF beginnings until reminded by exhibit SUR00004509 where Andy explained that he currently had funding to lend £10m to 5 companies but had made provisions for significant growth of up to £125m as the quantum of the bondholder funds grew. In January 2016, I questioned Andy further about the number of borrowers and Andy explained his reasons really well. Andy said that LCF's inflow of funds was inconsistent and he never knew how much money he would have through the door to lend out, so, in the early days, he had to lend to Companies where he knew the people and they could accept a degree of inconsistency. He told me he would open the doors to more borrowers when he had consistent funds coming in, but by lending to people he knew, he had a closer understanding of the business and the people behind them which was to be an advantage when assessing risk. SUR000004509-0001

86 Once the core technology was in place to take on Bondholders, we moved our attention to the borrower side of LCF's business. We wanted to build LCF another website to attract multiple UK businesses to apply for loans with LCF. However, Andy didn't want to do that. I couldn't understand why he would not want to do that and when I asked him about it, he said he might give the opportunity to his brother to set up the new website. We felt very vulnerable about that. When we noticed at Companies House that a new company called London Capital Marketing had been registered, we speculated with concern that potentially one day Andy would bring the services outsourced to Surge in-house entirely and we could lose them as a client.

87 In May 2017, we said to Andy it had been a long time since our last directive from him. We felt some of the data on LCF's website was out of date and we asked him and Kobus to update it. Andy said to write a list of questions for him, which we did, and he answered them in a face-to-face meeting with the staff. I was not able to attend that meeting, but I believe that what was discussed was written down and the key point was when Andy was asked how many companies he was lending to, his answer was something like 124 loans. I remember thinking that was a slightly weird, indirect answer and we did try to push him on it. He didn't change his answer and instead I recall he said his advisors said this was the right answer to give.

88 I also recall that when the audit came out in February 2018 we had questions for Andy and had a series of meetings to discuss those questions. One of those meetings was by telephone and, by chance, it was recorded as my mobile ran out of battery and I therefore used the office line. I remember quizzing him on the audit results during that call. Andy answered my questions and I took what he said at face value (SUR00125399). SUR00125399-0001

E. LONDON OIL AND GAS

89 I knew Simon had interests in oil and gas from the first meeting in February 2015, but our involvement with LOG came much later on in January 2017 when Surge wanted to take on another bond and we made it clear to Andy that we were interested in growing our client base. I think LCF became worried that Surge was looking to diversify and so Simon and Spencer visited the Surge offices and proposed a new bond. Simon and Spencer said they wanted to work with Surge and, reluctantly, we entertained it. I wanted to grow Surge and ensure its future security as a business by having a truly diverse client base, but we were also concerned that LCF were our biggest client and

we did not want to ruin the relationship we had with Spencer and Simon given the LCF relationship had started with them. As previously mentioned, there were signs that Andy had considered working with another marketing company and bringing the outsourced services back in house.

90 We decided to help Simon and Spencer set up their new bond. It was going to be corporate finance lending rather than secured SME lending. I understood the material difference between corporate finance lending and SME lending to be that corporate finance was more speculative, in the sense that it could be lending on new technologies or ventures that haven't started yet, and they were deals with less security. Such ventures could find it hard to obtain funding from a bank. As we were going through the process of helping them set up that bond, we started to gather the information that would be the content for an IM. However, Spencer told me that when Andy found out Surge was working on a new bond he was upset, as he felt LCF wasn't the focus for Surge. After that, I believe some disagreements between Spencer, Andy and Simon must have occurred, as the Westminster Corporate Finance bond was taken away from us.

91 Surge still wanted to diversify its client base and that is when Simon and Spencer suggested an alternative, marketing a bond for London Oil & Gas Limited (**"LOG"**). There were a couple of meetings in Arthur Street, near London Bridge where Independent Oil and Gas and Atlantic Petroleum (both companies were part of a collection of investments made by LOG) were headquartered and a handful of meetings at Tunbridge Wells where Simon and the team behind LOG were headquartered. They were professional and had highly specialist knowledge and I was impressed. Charles Hendry, a previous Minister for Energy, was a board member. I knew that Simon's long-term career was in the oil industry from our very first meeting in 2015, and that he had an important role with senior level experience. I also knew that there were some overlapping business interests between Simon, Spencer and Elten. This overlap did not strike me as odd - Paul and I had overlapping business interests. I viewed LOG as Simon's business even though we never formally asked him who owned it and what his role was. Simon was my main point of contact for LOG, not Spencer or Elten. During the course of those meetings I got to know a lot more about the oil bond and it sounded like a good business to me. I learnt that there was gas in the North Sea off the cost of Norfolk that big operations like BP had left behind because it was only a small amount of gas compared to the amounts they usually deal with. The pipeline was getting old, and whilst it wasn't worth BP's time, for a small player there was still about a billion pounds worth of gas there. Independent Oil and Gas ("**IOG**") commissioned testing to see if they could get the pipeline up and running. They realised the pipeline was intact and that they could bring it back on line. They shared with me geology reports and professional studies undertaken to establish the volume of current gas reserves. The initial scepticism Paul and I had about an oil and gas bond back in 2015 changed once I understood the business better. It was not speculative exploration; the gas was there, experts had confirmed the pipeline was intact and extraction was possible. Given that IOG was AIM listed and experts had been looking at the proposition, I felt very comfortable with it and thought this is actually something the public could be interested in.

92 We had a contract with LOG for Surge to set up the investment proposition in relation to establishing a new bond e.g. website, promotional materials, marketing campaign, account management team and back-office function. I cannot remember exactly how much we were going to charge, but LOG would pay 50% upfront and 50% on completion, completion being when the bond went live. These terms were agreed at a

meeting in our offices in Brighton and I recall that was in January 2017 because I have seen a follow-up email from me to Simon, Paul and John dated 27 January 2017 (SUR00062433). SUR00062433-0001

93 During the course of attending some initial meetings and starting to prepare an action plan for the work Surge would be doing for LOG, progress stalled and I remember that this frustrated Simon. Security was going to be an important feature when it came to marketing information and so, having gained experience from working with Blackmore and LCF, I decided to ask for more detail on LOG's security in or around early 2017. Simon told me that the security was the licence rights to extract gas out of the ground in the North Sea. I then asked him for the documents to support this and either Simon or maybe a member of his team called Clint Redman, sent me the licencing documents. The first thing that jumped out to me was that the licence rights had expired. I remember explaining to Simon that these documents cannot be the security as they have all expired. I was told that they can be used as they get renewed by the Minister in a rubber stamp exercise. To their credit, when I asked for those documents to be updated, they did update them as they had said they would.

F. BORROWING COMPANIES

94 As explained above, it was the need for Surge to have a broader client base that led to our agreement to work on the LOG bond issue. By 2017, I did not know who LCF were lending to, but I had understood from my previous discussions with Andy in late 2015/beginning of 2016 that LCF's borrower companies were connected to Spencer, and Andy had explained his reasons for this to me. I did not know exactly which companies these were, and I did not expect this to still be the situation in 2017 after we had raised so much more money for LCF. I knew Simon and Spencer had multiple other business interests for example a leisure and tourism business, called the London Group which I understood was a hotels business, but I understood that to be separate. I also knew they had holiday cottages in Cornwall and a Cape Verde project which they had told us about from our very first meeting back in 2015. I did not know specific details such as who owned what but I understood that both Simon and Spencer shared many joint interests in multiple companies. In the course of working on the LOG bond I was given a list of assets by Simon, Clint Redman or a lawyer working with them, Robert Sedgwick, to be used as security for the bond. I read these in detail. I was provided with licences to extract the gas from locations in the North Sea and I discovered some of them had expired, I raised this with John and Simon. Simon said he would get the licences re-issued. I sent the licences to lawyers at Squire Patton Boggs to review and to ask if such licences could be readily re-issued. Simon was good to his word, and the licences were re-issued.

95 I had raised concerns with John because I felt that I had not been getting clear answers about LOG's security and the expired licences were a further concern. As a result, John undertook searches at Companies House and telephoned to let me know that he had found that some of the assets referenced on security were already charged to LCF. This shocked us both and we called an immediate meeting with Simon to ask how he proposed to use security for the new bond when the security was already committed elsewhere. Simon and Spencer attended the meeting at the Surge offices with Paul, John and I also present. They explained that the oil business was in fact a borrower of LCF but now needed a larger funding line which was the reason for issuing its own bonds. They had agreed for LCF to take a more significant charge than required per the Loan to Value agreed in the facility letter, but would now request for Andy to release the surplus so that it could be used on the new bond. Whilst we thought this

sounded complex, we also accepted that it was plausible and were happy to proceed. However, things didn't move forward from this point, they were slow to provide additional information and despite working on this set up for many months, the LOG bond was never completed.

96 If a bond holder or customer ever flagged a concern with the account managers, for example because they had seen a negative story on the internet about LCF, the account managers would report it to John or Jo. Sometimes we would dismiss a comment from a member of the public, because it is not uncommon for the internet to attract trolls. However, I remember that there were comments that we thought warranted escalation we usually asked John to speak to Andy to provide an answer and were always satisfied with the response.

F. ADMINISTRATION OF LCF

97 We never knew of any major FCA concerns regarding LCF. We regularly got the information they had written about s.21 sign offs but that was not a concern. The FCA's approach to minibonds was evolving and they were trying to raise standards. We had no warning of the FCA intervention. Shortly before Christmas in 2018, Andy told John that the FCA had arrived on the doorstep with the surprising news that LCF was under an investigation and would have to temporarily cease trading. He then didn't contact us until the New Year when he provided reassurances to John and Paul that the investigation would be over soon and we could resume business as usual. The next contact contradicted this message, we were told that Andy had been advised to put LCF into administration. The decision was taken because the investigation meant no money in or out and there was no clear timescale for the investigation making business untenable.

98 LCF's administrator contacted Surge to say we had to put a notice on LCF's website regarding the administration. They later sent us the administration report to put on the website. I read it and it was scathing about Surge and seemed to me to be written in order to be scandalous. They had positioned us early in the document as having simply taken 25% of bondholders' money. It shook my world to a see an administrator write in that way. It made it sound like Surge had just taken money from bondholders as opposed to having been paid for services delivered, as an overhead of LCFs business. The subsequent targeting of Surge, and Paul in particular, by the press has been hugely distressing, and the cause of immense stress to me.

99 Paul and I ran Surge honestly. We worked very hard to provide an excellent service to LCF. In running Surge's business, we relied on the information that was provided to us by LCF and also on the work of its auditors and lawyers. We put in place a compliance system to make sure our sales team were acting consistently and in accordance with proper procedures. We did not tell LCF how to run its business but I had no reason at all to think, and did not think, that LCF was a fraudulent scheme as alleged by its administrators. I would not have been involved with LCF if I had ever thought that. There have been personal consequences for all involved. For my part, I was offered a job at EY but this was withdrawn after due diligence because of a newspaper article referencing my name in connection to the LCF scandal. In my next post at Founders Factory, I built a pension consolidation software for Aviva and they knew about and accepted my connection to LCF. The project was expanded to include regulated activities and as the CEO of this venture it was agreed with Aviva that I would apply for CF1 regulatory permissions under Aviva's regulatory licence. At this point the Aviva compliance function expressed that due to my connection to LCF they could not have me publicly on the FCA register under their name. Whilst they did not suspect me of

any wrongdoing, the potential for negative press and public relations issues were a concern and so I lost my job. The effects in my personal life have been far reaching and devastating.

100 I feel it is also important for me to speak up for Paul. I worked closely alongside him for 7 years and came to know his character well. Paul has served his country first in the army and later as a police man. When he walks down the street he stops to pick up litter. When members of staff had personal problems, he went out of his way to help them. I have never worked with anyone more impressive in terms of innovation, strategy, leading and motivating people. Paul does not deserve to have been brought into this scandal and villainised in the press. The first administrators' report positioned Surge as a conspirator to fraud when it was simply a supplier of services to a company that had appeared credible to us, and also PWC, EY, Lewis Silkin, and for a long time the FCA.

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: [redacted]

Name: KERRY GRACE VENN

Dated: 14 September 2023

<u>Confirmation of Compliance (PD 57AC, para 4.1)</u>

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: [redacted]

Name: KERRY GRACE VENN

Dated: 14 September 2023

Certificate of Compliance (PD 57AC, para 4.3)

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 Kerry Venn.

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: [redacted]

Name: RICHARD CLAYMAN

Position: Partner, Kingsley Napley LLP

Dated: 14 September 2023

Annex 1: List of Documents (PD 57AC, para 3.2)

Bates Document Reference	
SUR00000910	SUR00000910-0001
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