

Claimant

Paul Careless

Fourth Witness Statement

18 April 2024

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 INTELLIGENT INVESTMENT LIMITED
(10) ~~HELEN HUME-KENDALL~~
(11) ~~MICHAEL STARKIE~~
(12) ~~STEPHEN RUSCOE~~
(13) ~~ERIC BOSSHARD~~
(14) ~~ROGER FILTNESS~~
(as representative of the estate of Mr Robin Hudson (deceased))
(15) ~~CHARLES HENDRY~~

Defendants

FOURTH WITNESS STATEMENT
OF PAUL JAMES CARELESS

I, PAUL JAMES CARELESS, of [REDACTED] Coln Waters, Lechlade, [REDACTED]
WILL SAY as follows:

A. INTRODUCTION

- 1 I am Paul James Careless and I am the Fifth Defendant in these proceedings. I have been a Director of the Sixth Defendant, Surge Financial Limited with Company Number 09395654 ("**Surge**") since 7 July 2017. I make this statement in support of my and Surge's (the "**Surge Defendants**") Defence of these proceedings brought by the administrators of London Capital & Finance PLC ("**LCF**") and London Oil and Gas Limited ("**LOG**"), and specifically in response to the new allegations pertaining to the Surge Defendants knowledge of fraud (the "**New Allegations**") contained within the Claimants' Re-Re-Re-Amended Particulars of Claim (the "**RRRAPOC**").
- 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 that the Claimants have referred to in their written opening submissions dated 15 December 2023. 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 Surge Defendants' solicitors, Kingsley Napley LLP, correspond to the bates numbers allocated to the relevant parties' disclosed documents.

B. NEW ALLEGATIONS

Alleged knowledge of LFC payments to connected parties

- 4 The Claimants are now alleging that I (and through me, Surge) had actual knowledge of substantial payments made by LCF to Mr Golding ("**Spencer**"), and inferred knowledge of substantial payments being made by LCF to Mr Hume-Kendall ("**Simon**"), Mr Thomson ("**Andy**") and Mr Barker ("**Elten**"). In support of this allegation, the Claimants appear to rely solely on an email exchange between LCF, Steve Jones ("**Steve**") and myself in July 2016 in which LCF state that they have reached their bank account limit for that day and Steve then speculates on why that might be, including that it might include "payments to Spencer etc". I found nothing suspicious in this. Steve and I both knew that LCF had lent money to Spencer's businesses. I had no knowledge of how those funds were used and assumed that it was part of LCF's legitimate lending practices done under the appropriate terms, and overseen by LCF's advisors Lewis Silkin and / or Buss Murton. I had no knowledge of any payments being made by LCF to Spencer personally.
- 5 I had no knowledge at the time that LCF was making payments to Simon, Andy and / or Elten, and I do not recall thinking at the time that the reference to "etc" meant payments to them. I would have found it just as likely that LCF had breached their payment limit by paying other borrowers and / or their other service providers such as lawyers and accountants. I had no way of knowing how LCF executed their funds, and it was frankly none of my business. I did not have access to LCF or Andy's bank statements, and they did not have access to mine or Surge's.
- 6 I was not aware of any payments by LCF to Simon personally. As with Spencer, I knew that LCF had lent money to his businesses, and so would have assumed that any money received by him from LCF was done legally and legitimately under the appropriate terms, overseen by LCF's advisors Lewis Silkin and / or Buss Murton. I had no knowledge of any specific payments at the time.

Alleged lack of trust in information provided by Mr Thomson and LCF

- 7 Whilst it is true to say that there were times that Kerry and I questioned information given to us by Andy, it is incorrect to suggest that we did not feel we could rely on that information.
- 8 Kerry and I both queried how LCF had managed to set up an ISA based on what we understood the regulations to be at the time. Part of me wondered whether they had got it wrong, but given the involvement of EY and Lewis Silkin and the fact that HMRC had given LCF ISA Manager approval, I was mainly impressed that LCF had found a way to do it.
- 9 Kerry raised a number of questions with LCF at the time to try to better understand how they had found a route to the ISA. At the time Kerry was heavily involved in trying to set up an ISA wrapper for Blackmore, but was facing lots of barriers so she was extremely keen to understand how Andy had been able to get it exactly how he wanted. Therefore, she did ask more questions and probe further than was probably expected, not as I understand because she thought it was a lie, but because she wanted to understand for the benefit of Surge's other client. I understand that this is why Kerry found Andy difficult and not entirely open with her at the time, not because he was lying, but because he didn't want to help his competition unless he was benefitting from it.
- 10 I relied on and took comfort from the information in the ISA Information Memorandum that LCF shared as I knew it was written by Lewis Silkin and would have received s21 sign off. I had met with Lewis Silkin on a number of occasions, including with Owen Watkins who held himself out to be a barrister with decades of prior experience working with and experience of the regulator, and therefore felt comfortable taking instruction from LCF on the ISA. To the contrary, I had not met or had anywhere near as much personal interaction with Blackmore's legal advisors Squire Patton Boggs.
- 11 Ultimately, any misgivings I might have had at the time were quelled by the fact that there were so many other professionals involved in the process, including prestigious lawyers and accountants, who were frankly much more qualified than me to advise on this area.

Allegations re "LCF2"

- 12 The concern that began in 2018 regarding the future of LCF was due to a number of factors. At that point Surge was raising high levels of funds for LCF; typically over £10M a month. I was concerned that LCF would not be able to deploy the funds as quickly as they were being raised, resulting in either Surge having to reduce or completely cease its fund-raising efforts, cutting off that revenue stream. Blackmore's retail prospectus was being held up by the FCA, who I understand were reviewing Blackmore's application for further regulatory approval, which stymied that revenue stream. I was concerned that the same might happen with LCF i.e. their business would be affected in some way as a result of regulatory review / changes. I was also aware that Andy was planning to put LCF into a regulated space, and was unsure what the future of Surge's relationship with LCF would look like in the new regulated arena.
- 13 I therefore considered that Surge would need to diversify or find another bond to work with so that it could keep running at the same level. Surge accumulated big overheads to provide the services it did and it was investing into other companies (for example, View Property Group, Service Box, Crucial), so it needed to ensure an income. At that

time Blackmore were being restricted by the FCA and were not accepting new funds, so I needed to consider other options.

- 14 It is important to note that Simon and Spencer had wanted to work with Surge since our first meeting in February 2015. At that time, Kerry and I felt that SAFE / LCF was the better option. Simon initially had some reservations about what value I and Surge could offer, however time revealed to him that there was incredible value in the skills we had developed in marketing, technology, and providing valuable inflows of investor funds. It was therefore no surprise that in 2018 Simon and Spencer remained very keen to explore other opportunities with us.
- 15 One of the options explored involved setting up a new corporate finance bond ("LCF2"). Kerry and I had already been working on the oil bond which had failed to launch, so this was just a new project to get stuck in to. We wanted to take what we had learned from LCF and create an even better bond. I saw no issue with the fact that it would lend funds to companies that were connected to Spencer and Simon (amongst others) as I knew that LCF already did this and, as mentioned above, I had no reason to believe that this wasn't all above board.
- 46 It is true that I thought it best that LCF2 not be connected to LCF but only because I wanted diversification for my own business. It is for this reason that Kerry and I ultimately decided against pursuing the idea further.
- 17 I had no sight of where LCF's funds went other than by virtue of their audits. I certainly had no concerns at the time that funds were being used inappropriately, and therefore had no real concerns about financial collapse. As far as I was aware, there was more than adequate security in place to prevent this from happening. In 2018, I was simply looking to develop a new product to protect Surge's future by diversifying its sales activity.

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: PAUL JAMES CARELESS

Dated: 18 April 2024

Confirmation of Compliance (PD 57AC, para 4.1)

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: PAUL JAMES CARELESS


Dated: 18 April 2024

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 Paul Careless.
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: WILLIAM CHRISTOPHER

Position: Partner, Kingsley Napley LLP

Dated: 18 April 2023

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

Bates Document Reference
SUR00032895-0001
MDR00007263
MDR00058502
MDR00215810
MDR00051159
MDR00220286
MDR00088779
MDR00215810
MDR00055328
MDR00072440
SUR00086365-0001
MDR00195123
MDR00024974
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