

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

7 Rolls Buildings
Fetter Lane
London
EC4A 1NL

Thursday, 16th January 2025

Before:
HIS HONOUR JUDGE HODGE KC
(Siting as a Judge of the High Court)

IN THE MATTER OF CATERHAM CAPITAL LIMITED (IN LIQUIDATION) AND IN
THE MATTER OF THE INSOLVENCY ACT 1986

B E T W E E N:

(1) MR KEVIN ASHLEY GOLDFARB
(2) MR STEPHEN JOHN HUNT
(AS JOINT LIQUIDATORS OF CATERHAM CAPITAL LIMITED)
Applicants

- and -

(1) MR CARSTEN BIRKEBAEK
(2) MS REBECCA LODGE
Respondent

MR DAVID WILLIAMS appeared on behalf of the Applicant
THE RESPONDENTS appeared in person

JUDGMENT
(Approved on 6 May 2025)

This Transcript is Crown Copyright. It may not be reproduced in whole or in part, other than in accordance with relevant licence or with the express consent of the Authority. All rights are reserved.

HIS HONOUR JUDGE HODGE KC:

1. This is my extemporary judgment on an application that has been made by an unaccredited media representative during the morning of the first day of this hearing which has been listed for two days in the Insolvency and Companies List of the Business and Property Courts of England and Wales, sitting at the Rolls Building in London.
2. This is the hearing of an application issued in the liquidation of a company called Caterham Capital Limited. The company acted as a lessor and broker of shipping containers. The application is brought under case number CR-2016-006029 by the joint liquidators of the company, Mr Kevin Ashley Goldfarb and Mr Stephen John Hunt. The respondents are the former sole director and shareholder of the company, Mr Carsten Birkebaek, and his now wife, Mrs Rebecca Lodge-Birkebaek. The second respondent was not the wife of the first respondent at any time relevant to the present application.
3. The applications are for the recovery of monies said to be due to the company under sections 238 and 239 of the Insolvency Act 1986 and for relief against the first respondent under 212 of that Act.
4. The application was issued as long ago as 10 March 2021. There have been no less than six witness statements in support of the application from Mr Goldfarb, one of the joint liquidators. There have been no less than five witness statements from the first respondent and two witness statements from the second respondent, the most recent of them being on 28 November 2024.
5. The present stage of the hearing is that I have heard cross-examination and a brief re-examination of Mr Goldfarb, who is the only witness for the joint liquidators. The court then rose for 20 minutes to enable the respondents to prepare themselves to be cross-examined by Mr David Williams (of counsel), who appears for the applicants. The respondents both appear as litigants in person.
6. During the course of that brief adjournment, I received a note from the usher. That note recorded that she had been approached by an unaccredited media representative, who is a non-party to the proceedings. He indicated that he would like access to the parties' witness statements and skeleton arguments. He invites the court to give directions so that he can make such an application. He says that Knights PLC (who represent the applicants) have received a two-page application with references to authorities. Unfortunately, I do not have access to that. I have checked the C-file for this case. That CE-file has no less than 237 case events but the most recent is the core bundle. I cannot see any reference, even in unprocessed filings, to any application by the unaccredited media representative, Mr Cloake. Mr Cloake has explained why it is that he wants access to the witness statements and skeleton arguments. He says, understandably, that it is not possible for him to understand the issues in the case, or the cross-examination that he has patiently listened to this morning, without access to the underlying documents. I can understand that.
7. I have invited the views of the parties. For the applicants, Mr Williams has indicated that they are neutral on the matter. Both respondents oppose the application. They indicate that they are concerned about disclosure of the underlying evidence. The first respondent, in particular, is concerned that there has been what he views as misreporting of certain aspects of his case

in the past, and he does not want adverse comment on social media. He points to potential reputational damage to himself as a successful business person.

8. I have sympathy for those views. Nevertheless, this is a public hearing, and the cross-examination of Mr Goldfarb has taken place in public; and the cross-examination of each of the two respondents, which will shortly commence, will also take place in public. It is impossible for anyone observing the proceedings to understand how the case is being conducted by myself, as the judge, without being able to see the underlying documents. The transparency of court proceedings is an important public interest.
9. I am prepared to accede to the application for the disclosure of the witness statements and the skeleton arguments. That will not, at least at this stage, extend to the many pages of exhibits; but the witness statements themselves, and the skeleton arguments should be made available. I am not sure how practically that can be done, given that, as I say, there are 237 case events on the CE-file for this case and many of them are likely to include multiple documents. It may be that the easiest way of doing so, in the first instance, is for Mr Cloake to be given access to the link to the core bundle that was uploaded to CE-file last evening and took the number of case events to 237. That should contain the bulk of the relevant documents. In addition, Mr Cloake will need access to the most up-to-date skeleton argument from Mr Williams, and the skeleton arguments from each of the two respondents. Mr Cloake will, I think, need to discuss with representatives of the applicants' solicitors, over the luncheon adjournment, how that is to be achieved; but my ruling is that Mr Cloake should have access to the witness statements and the skeleton arguments, although I cannot see that he needs access to the exhibits. Should he find that he needs those, then he can make a further application to the court. The practicalities will have to be discussed over the luncheon adjournment.
10. I emphasise that the disclosure of these documents should be limited in their use for the purpose of reporting the proceedings in open court in good faith and with reasonable fairness and accuracy.

End of Judgment.

Transcript of a recording by Acolad UK Ltd
291-299 Borough High Street, London SE1 1JG
Tel: 020 7269 0370
legal@ubiquis.com

Acolad UK Ltd hereby certify that the above is an accurate and complete record of the
proceedings or part thereof.

This transcript has been approved by the judge.