

Fourth Respondent
Robert Ryan
1st Witness Statement
Made: 2 March 2015
Filed: 3 March 2015
No 7942 of 2008

IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION
COMPANIES COURT

IN THE MATTER OF LEHMAN BROTHERS INTERNATIONAL (EUROPE) (IN
ADMINISTRATION)

AND IN THE MATTER OF THE INSOLVENCY ACT 1986

- (1) ANTHONY VICTOR LOMAS
- (2) STEVEN ANTHONY PEARSON
- (3) PAUL DAVID COPLEY
- (4) RUSSELL DOWNS
- (5) GUY JULIAN PARR

(as the joint administrators of the above named company)



Applicants

- AND -

- (1) BURLINGTON LOAN MANAGEMENT LIMITED
- (2) CVI GVF (LUX) MASTER S.À R.L
- (3) HUTCHINSON INVESTORS LLC
- (4) WENTWORTH SONS SUB-DEBT S.À R.L
- (5) YORK GLOBAL FINANCE BDH, LLC

Respondents

FIRST WITNESS STATEMENT OF ROBERT RYAN

I, **Robert Ryan** of Elliott Management Corporation ("**Elliott**"), of 40 West 57th Street, New York, NY 10019, United States, state as follows:

Introduction

1. I am a Portfolio Manager at Elliott and have held this role within Elliott since 2009.
2. Elliott is one of the parties to the Wentworth joint venture and I am authorised by Wentworth Sons Sub-Debt S.à r.l (the Fourth Respondent to these proceedings) to make this witness statement.
3. The purpose of this witness statement is to set out certain evidence relevant to some of the matters covered in the tenth witness statement of Anthony Victor Lomas ("**Lomas 10**"), the first witness statement of Andrea Zambelli ("**Zambelli 1**"), and the first witness statement of Paul Copley ("**Copley 1**").
4. I wish to address the evidence on Currency Conversion Claims ("**CCCs**") filed in this Application (in particular Zambelli 1 and Copley 1).
5. Terms capitalised but not otherwise defined have the meaning given to them in Lomas 10 or Copley 1 (as the context requires).
6. Save where I have indicated otherwise, the contents of this witness statement are matters within my personal knowledge and are true. Where matters are not within my own personal knowledge I identify the source and I confirm they are true to the best of my knowledge and belief.

Background

7. I have had responsibility for Elliott's involvement in the LBIE estate which is one of the largest unsecured creditors. I have had responsibility for negotiating and agreeing Elliott's CDDs and for reviewing CDDs for claims subject to potential acquisition by Elliott.
8. I and / or members of my team have had regular discussions with Mr Copley and other Joint Administrators (we have had many face to face meetings and frequent telephone contact).
9. The Wentworth vehicle was established on January 31, 2014. At the time Elliott was (and remains) a senior creditor like any other LBIE senior creditor, save that Elliott is one of the largest senior creditors.

Currency Conversion Claims ("CCCs**")**

10. I first introduced to the Joint Administrators the idea that CCCs might exist in early 2013.
11. Until then, and even subsequently, I always understood from the regular discussions I had with the Joint Administrators that their aims were to determine creditors' unsecured entitlement for all purposes and to mitigate and agree claims. This is consistent with one of their objectives which has been repeated in each progress

report to date, which is to *"Mitigate as far as is possible and agree in principle the claims of all creditors"*.

12. It is also consistent with the evidence of the Joint Administrators, including the following paragraphs of Lomas 10:

"42. Having determined not to use the previously considered systematic, collective approaches to determine unsecured claims, the Joint Administrators focused on developing a bilateral claims agreement for creditors in order to accelerate the claims agreement process..."

44. Project Canada proceeded on the basis that LBIE would offer a creditor a single number representing LBIE's determination of the creditor's claim taking account of the positions under all master agreements and other financial trading arrangements between LBIE and the creditor..."

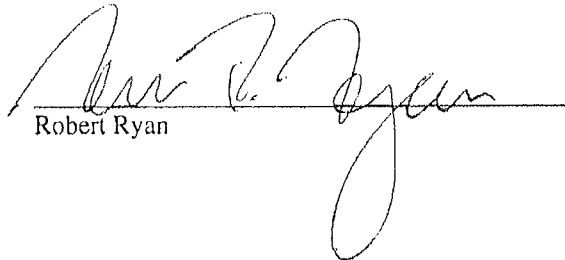
48. The purpose of the CDDs was to provide an efficient process for agreeing the amount of a creditor's claim."

13. Regarding the first assertion at paragraph [27] of Copley 1, that the Joint Administrators did not specifically indicate that the CDDs were intended to release *"non-provable claims"*. I recall no specific indication with respect to releases in relation to *"non-provable claims"* before I raised the possibility of CCCs first existing and, as far as I am aware, it was only then that a notion of *"non-provable claims"* was really given any thought by the Joint Administrators.
14. To the best of my recollection, before I mentioned the possibility of CCCs existing, Mr Copley never said, and nor did any other Joint Administrator, to anyone at Elliott to my knowledge, that the CDDs were aimed only at releasing known or provable claims.
15. After having mentioned the existence of CCCs, I agreed with the Joint Administrators that Lydian Overseas Partners Master Fund Limited would become a party to the Waterfall I proceedings. We joined the Waterfall I proceedings on March 27, 2013.
16. I subsequently spoke with Mr Copley and, consistent with his assertion at paragraph [23] of Copley 1, I recall him telling me that he did not know if CCCs or non-provable claims existed. However, I also recall a telephone conversation in the first quarter of 2013 when Mr Copley informed me that he believed that CDDs waived the right to payment of claims in the original currency of the underlying claims regardless of what currency was used in respect of the admitted or agreed claim amount in the CDD.
17. In all the conversations I had with Mr Copley, he never mentioned that it was his preference to make a public statement that CDDs did not release CCCs or to make a public statement that it had not been the intention of the Joint Administrators that creditors waive their right to CCCs. As I said at paragraph [8] above, we spoke regularly and given that Elliott was (and remains) one of the largest senior creditors I find it odd that he never said anything to me about this.

18. At no time prior to the introduction of the proposed CCC carve out language in CDDs did Mr Copley (nor any other Joint Administrator) ever say to me or a member of my team that it had been his preference to carve out CCCs from the CDDs.
19. To the best of my recollection, the statements Mr Zambelli asserts Mr Copley as having made in paragraphs 6 and 8 of Zambelli 1 at certain meetings that took place between them in August and October 2013, are not statements I recall Mr Copley having told me during any discussions at that time, or, so far as I am aware, any member of my team.

Statement of Truth

20. I believe that the facts stated in this witness statement are true.


Robert Ryan

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FIRST WITNESS STATEMENT OF
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SOLICITORS FOR THE FOURTH
RESPONDENT

Kirkland & Ellis International LLP
30 St Mary Axe
London EC3A 8AF
Tel: 020 7469 2000
Fax: 020 7469 2001