

TUESDAY 24TH OCTOBER 2017

IN THE COURT OF APPEAL

ON APPEAL FROM THE HIGH COURT OF JUSTICE
CHANCERY DIVISION

7942 OF 2008

BEFORE LADY JUSTICE GLOSTER
Vice President of the Court of Appeal, Civil Division
AND LORD JUSTICE PATTEN
AND LORD JUSTICE BRIGGS

B E T W E E N

- (1) BURLINGTON LOAN MANAGEMENT LIMITED
- (2) CVI GVF (LUX) MASTER SÀRL
- (3) HUTCHINSON INVESTORS LLC
- (4) WENTWORTH SONS SUB-DEBT SÀRL
- (5) YORK GLOBAL FINANCE BDH LLC

APPELLANTS

AND

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

(AS THE JOINT ADMINISTRATORS OF LEHMAN BROTHERS INTERNATIONAL
(EUROPE) (IN ADMINISTRATION))

RESPONDENTS

UPON THE APPEALS against the declarations numbered (iii), (iv), (v), (vi), (viii), (x), (xiv), (xvii), (xviii) and (xix) made by the Order of David Richards J dated 9 October 2015 in respect of [2015] EWHC 2269 (Ch); the declarations numbered (i) and (iv) made by the Order of David Richards J dated 9 October 2015 in respect of [2015] EWHC 2270 (Ch); the declarations numbered (3), (4), (5) and (6) made by the Order of David Richards J dated 17 October 2016 in respect of [2016] EWHC 2131 (Ch); and the declaration numbered (xxvii) made by the Order of Hildyard J dated 12 December 2016 in respect of [2016] EWHC 2417 (Ch), (“the Orders”), brought variously by:

- (a) Burlington Loan Management Limited, CVI GVF (Lux) Master SÀRL



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Appeal No.

A3/2015/3753
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A3/2017/0043



and Hutchinson Investors LLC (the "Senior Creditor Group") by Appellant's Notices dated 13 November 2015 and 10 November 2016;

(b) Wentworth Sons Sub-Debt SÀRL ("Wentworth") by Appellant's Notices dated 13 November 2015 and 10 November 2016; and

(c) York Global Finance BDH LLC ("York") by Appellant's Notices dated 13 November 2015, 10 November 2016 and 6 January 2017, (the "Appeals").

AND UPON THE RESPONDENT'S NOTICES lodged by the Senior Creditor Group on 27 November 2015 and the Joint Administrators of Lehman Brothers International (Europe) (in administration) (the "LBIE Administrators") on 24 November 2016

AND UPON HEARING Robin Dicker QC for the Senior Creditor Group, Antony Zacaroli QC for Wentworth, Tom Smith QC for York and Daniel Bayfield QC for the LBIE Administrators

IT IS ORDERED that

1. The Appeals be dismissed.
2. The Senior Creditor Group's costs of and occasioned by the Appeals be paid as an expense of the LBIE Administration, such costs to be limited, with respect to solicitors, to such costs as would have been incurred had the Senior Creditor Group retained one firm of solicitors only, and such costs to be assessed by way of detailed assessment if not agreed.



3. Wentworth's costs of and occasioned by the Appeals be paid as an expense of the LBIE Administration, such costs to be assessed by way of detailed assessment if not agreed.
4. York's costs of and occasioned by the Appeals, capped at 30% of the costs claimed by the Senior Creditor Group in paragraph 2 above, be paid as an expense of the LBIE Administration, such costs to be assessed by way of detailed assessment if not agreed.
5. The LBIE Administrators' costs of and occasioned by the Appeals be paid as an expense of the LBIE administration.
6. The Senior Creditor Group's application for permission to appeal to the Supreme Court in respect of the matters identified as Items 1 and 2 in the Judgment of the Court of Appeal is refused.
7. Hutchinson Investors LLC's application for permission to appeal to the Supreme Court in respect of the matters identified as Items 4 and 11 in the Judgment of the Court of Appeal is refused.
8. York's application for permission to appeal to the Supreme Court in respect of the matters identified as Items 1, 11 and 12 in the Judgment of the Court of Appeal is refused.
9. Wentworth's application for permission to appeal to the Supreme Court in respect of the matter identified as Item 5 in the Judgment of the Court of Appeal is refused.



By the Court

