

IN THE HIGH COURT OF JUSTICE

No. 7942 of 2008

CHANCERY DIVISION

COMPANIES COURT

Before the Honourable Mr Justice David Richards

Friday the 9th day of October 2015



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

AND IN THE MATTER OF THE INSOLVENCY ACT 1986

BETWEEN

(1) ANTHONY VICTOR LOMAS

(2) STEVEN ANTHONY PEARSON

(3) PAUL DAVID COPLEY

(4) RUSSELL DOWNS

(5) JULIAN GUY PARR

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

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

ORDER

UPON THE TRIAL OF ISSUES 34, 35, 36A AND 38 (“TRANCHE B”) OF THE AMENDED APPLICATION of Anthony Victor Lomas, Steven Anthony Pearson, Paul David Copley, Russell Downs and Julian Guy Parr of PricewaterhouseCoopers LLP, 7 More London Riverside, London SE1 2RT, the administrators of Lehman Brothers International (Europe) (“**LBIE**”) (the “**Administrators**”), dated 12 June 2014 and amended on 13 May 2015 (the “**Application Notice**”)

AND UPON READING the written submissions filed on behalf of the Administrators, the First to Third Respondents (the “**Senior Creditor Group**”) and the Fourth Respondent (“**Wentworth**”)

AND UPON HEARING William Trower QC, Daniel Bayfield and Alexander Riddiford for the Administrators, Robin Dicker QC, Richard Fisher and Henry Phillips for the Senior Creditor Group and Antony Zacaroli QC, David Allison QC and Adam Al-Attar for Wentworth (the Fifth Respondent not appearing on the hearing of this part of the application)

AND UPON the Judge indicating that it would be appropriate, on the facts of the case, for the Appellants to seek an extension of time from the Court of Appeal for the filing of skeleton arguments

IT IS HEREBY DECLARED that:

- (i) Neither the Claims Resolution Agreement (the “**CRA**”) entered into between LBIE and certain of its creditors nor any of the Claims Determination Deeds (the “**CDDs**”) entered into between LBIE and its creditors has, as a matter of construction, the effect of releasing any Currency Conversion Claims (as defined in the Part A Order).
- (ii) Neither the CRA nor any of the CDDs has, as a matter of construction, the effect of releasing in whole or in part claims to statutory interest under Rule 2.88 of the Insolvency Rules 1986 (the “**Rules**”) and, accordingly, creditors with provable debts agreed and/or admitted under such agreements are entitled to the payment of

statutory interest on such debts at the higher of the rate provided for by section 17 of the Judgments Act 1838 or the rate applicable to the debt apart from the administration under Rule 2.88(9) of the Rules.

- (iii) The CRA does not, as a matter of construction, create or give rise to any Currency Conversion Claims.
- (iv) If (contrary to declaration (i) above) the CRA or any of the CDDs had, as a matter of construction, the effect of releasing any Currency Conversion Claims, the Administrators would be directed by the Court, under the principle in *ex parte James* (1874) LR 9 Ch App 609 and under paragraph 74 of schedule B1 to the Insolvency Act 1986, not to enforce such releases.

AND IT IS HEREBY ORDERED that:

Costs

1. The Administrators' costs of and occasioned by Tranche B be paid as an expense of the administration.
2. The Senior Creditor Group's costs of and occasioned by Tranche B be paid as an expense of the 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.
3. Wentworth's costs of and occasioned by Tranche B be paid as an expense of the administration.

Permission to appeal

4. Wentworth has permission to appeal against the declarations recorded in paragraphs (i), (ii) and (iv) above.
5. Wentworth is to file its appellant's notice in respect of the appeals for which permission has been given by 4pm on Friday 13th November 2015.

Service of the order

The court has provided a sealed copy of this order to the serving party:

Linklaters LLP, One Silk Street, London EC2Y 8HQ (ref: Euan Clarke)