

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

COURT 71 Appeal No.

A3/2015/3753 A3/2015/3762 A3/2015/3763 A3/2015/3764 A3/2016/4213 A3/2016/4216 A3/2016/4217 A3/2017/0043 BETWEEN

(I) BURLINGTON LOAN MANAGEMENT LIMITED

(2) CVI GVF (LUX) MASTER SARL

(3) HUTCHINSON INVESTORS LLC

(4) WENTWORTH SONS SUB-DEBT SARL

(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 SARL



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 SARL ("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.



- 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.
- 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

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ON APPEAL FROM THE HIGH COURT OF JUSTICE CHANCERY DIVISION

ORDER

Copies to:

Chancery Division DX 160040 Strand 4

Freshfields Bruckhaus Deringer Llp Dx 23 Chancery Lane Ref: CHRISTOPHER ROBINSON

Kirkland And Ellis International Llp 30 St Mary Axe London EC3A 8AF Ref: PARTHA KAR/ KON ASIMACOPOULOS

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Michelmores Llp Dx 63 London Chancery Lane Ref: 109072/1

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Ropes & Gray International Llp 60 Ludgate Hill London EC4M 7AW Ref: JAMES DOUGLAS

^{*}This order was drawn by O Rahman (Associate) to whom all enquiries regarding this order should be made. When communicating with the Court please address correspondence to O Rahman, Civil Appeals Office, Room E307, Royal Courts of Justice, Strand, with the Court please address correspondence to O Rahman, Civil Appeals Office, Room E307, Royal Courts of Justice, Strand, with the Court please address correspondence to O Rahman, Civil Appeals Office, Room E307, Royal Courts of Justice, Strand, London WC2A 2LL (DX 44450 Strand) and quote the Court of Appeal reference number. The Associate's telephone number is 020 7947 7183