

Applicants
Russell Downs
Seventeenth Statement
Exhibit "RD-17"
25 October 2018

No. 7942 of 2008 / CR-2008-000012

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

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

-and-

IN THE MATTER OF THE INSOLVENCY ACT 1986

-and-

IN THE MATTER OF THE TRUSTEE ACT 1925

SEVENTEENTH WITNESS STATEMENT
OF
RUSSELL DOWNS

I, Russell Downs, of PricewaterhouseCoopers LLP, 7 More London Riverside, London, SE1 2RT,
say as follows.

- 1 I am the same Russell Downs who made a sixteenth witness statement in these proceedings
on 12 October 2018 (the "**Sixteenth Witness Statement**").
- 2 Terms defined in the Sixteenth Witness Statement have the same meanings herein except
where otherwise stated. I make this witness statement to update the Court on certain matters
referred to in the Sixteenth Witness Statement.

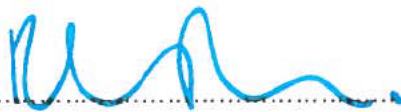
- 3 I am duly authorised to make this witness statement on behalf of LBIE and the other Joint Administrators.
- 4 There is now produced and shown to me and exhibited to this witness statement a paginated bundle of documents marked "RD-17". References to page numbers in this witness statement are to the pages of Exhibit RD-17 unless otherwise stated.
- 5 Where the source of my information or belief of facts stated in this witness statement is not indicated, the contents of this witness statement are derived from facts and matters which are within my own knowledge. I have learned these facts and matters either as a result of the work undertaken by me as one of the Joint Administrators or because they have been provided to me by my partners and colleagues at PwC involved with the administration of LBIE.
- 6 As I explained at paragraphs 98 and 99 of the Sixteenth Witness Statement, LBIE sought a direction from the FCA in the form of the Proposed CASS Waiver to obtain a modification of CASS 7.9.6R(2) and CASS 7.9.9R. On 25 October 2018 the FCA gave a direction to LBIE modifying CASS 7.9.6R(2) and CASS 7.9.9R. The direction took effect on 25 October 2018 and is due to end on 24 October 2019. The FCA has advised us that the direction will be published on their website on 26 October 2018 and that it will also appear on the FCA's Financial Services register. I have included a copy of the direction at **pages 1-9** (the "**CASS Waiver**"). The CASS Waiver is in substantially the same terms as the Proposed CASS Waiver. The only differences between the Proposed CASS Waiver and the CASS Waiver are that:
- (i) under the terms of the CASS Waiver, Known Clients who have confirmed their payment details since 1 July 2018 will not be required to do so again; and
 - (ii) the references to CASS 7.9.9R have been removed from CASS 7.9.6R(2G), (2J) and (2M). I am advised that this is a technical amendment resulting from the inter-relationship between CASS 7.7.2R, CASS 7.9.6R and CASS 7.9.9R and that it does not affect the substance of the modification sought in the Proposed CASS Waiver.

- 7 The CASS Waiver entitles LBIE to pay distributions in respect of certain Known Clients whom LBIE is unable to pay into the Insolvency Service's Unclaimed Dividends Account. I understand that in order to receive the relevant funds, and, in due course, to pay them to clients who come forward, the Insolvency Service requires a Court Order providing for the payment of the relevant client money funds to them and confirming that LBIE will pay their fees (see the email correspondence between Linklaters and the Insolvency Service at **pages 10-14**).
- 8 We published notice of the Application on PwC's website on 21 September 2018 (**pages 15-17**). In paragraph 14 of the Sixteenth Witness Statement I referred to our intention to notify Known Clients, for whom we had contact details, of the Application. On 15 October 2018 we emailed all Known Clients for whom we had an email address providing a link to the 15 October 2018 website update (**pages 18-19**) and notifying them that we had filed the Sixteenth Witness Statement in support of our application to the High Court for a client money bar date. As of the date of this witness statement, we have not received any communications from clients in relation to the Application.
- 9 We posted letters to clients for whom we have no email addresses between July and September 2018, to notify them of the Third Interim Client Money Distribution. If the Court grants an Order in substantially the form which we are seeking then, in accordance with the terms of the Order and the CASS Waiver and as discussed in paragraph 99(iii)(c) of the Sixteenth Witness Statement, we intend to give notice of a Bar Date by writing to all Known Clients as soon as possible after the Order is made, by email where we have email addresses and otherwise by post.

STATEMENT OF TRUTH

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

Signed:



RUSSELL DOWNS

Dated:

25 October 2018.