

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

BL-2020-001343

BETWEEN:

- (1) LONDON CAPITAL & FINANCE PLC (IN ADMINISTRATION)
(2) FINBARR O'CONNELL, ADAM STEPHENS, HENRY SHINNERS, COLIN HARDMAN AND GEOFFREY ROWLEY (JOINT ADMINISTRATORS OF LONDON CAPITAL & FINANCE PLC (IN ADMINISTRATION))
(3) LONDON OIL & GAS LIMITED (IN ADMINISTRATION)
(4) FINBARR O'CONNELL, ADAM STEPHENS, COLIN HARDMAN AND LANE BEDNASH (JOINT ADMINISTRATORS OF LONDON OIL & GAS LIMITED (IN ADMINISTRATION))

Claimants

- and -

- (1) MICHAEL ANDREW THOMSON
(2) SIMON HUME-KENDALL
~~(3) ELTEN BARKER~~
(4) SPENCER GOLDING
(5) PAUL CARELESS
(6) SURGE FINANCIAL LIMITED
(7) JOHN RUSSELL-MURPHY
(8) ROBERT SEDGWICK
(9) GROSVENOR PARK INTELLIGENT INVESTMENTS LIMITED
(10) HELEN HUME-KENDALL

Defendants

Transcript of proceedings made to the court on

Day 8 - Thursday, 29 February 2024

The claimants are represented by Mr Stephen Robins KC, Mr Andrew Shaw & Mr Philip Judd

Michael Andrew Thompson (D1) appears in person

Simon Hume-Kendall (D2) & Helen Hume-Kendall (D10) are represented by Mr Warwick KC & Mr Russell

Elten Barker (D3) settled and is not appearing

Spencer Golding (D4) is debarred from defending the claim

Paul Careless (D5) and Surge Financial Limited (D6) are represented by Mr Ledgister & Mr Curry
Russell-Murphy (D7) and Grosvenor Park Intelligence Investments Limited (D9) appear in person

Robert Sedgwick (D8) appears in person

Opening submissions by **MR ROBINS** (continued)

MR ROBINS: Your Lordship had a few questions for me yesterday. We have begun to look into those and, in due course, I will be able to show your Lordship documents to answer them: to confirm, for example, that the drawdown calculation spreadsheet that we were looking at was not sent to LCF, it was sent to Mr Sedgwick alone, but the documents that I need to show your Lordship to do that aren't yet in the trial bundle, so I propose to come back to those questions on Monday morning. At this point, I propose to turn to the LPE SPA, as it is known. Monies were drawn under LOG's facility with LCF and paid to Mr Thomson, Mr Golding, Mr Barker and Mr Hume-Kendall.

So, before looking at those payments, I need to start by saying a few words about LOG's facility with LCF.

LOG's first drawdown from LCF took place on 21 March 2016. The initial drawdowns were paid to, I think, Leisure & Tourism Developments. There's an email that will cast some light on this at <MDR00044047>.

My Lord can see it is an email from Katie Maddock to *****. That's the same Nicola as we have seen previously. The subject is "LOG invoice & loan profile". The attachments include "LOG loan profile.xlsx", a spreadsheet. She says: "Hi Nicky.

"Please find attached invoice and loan profile for LOG."

So we know it is a LOG loan profile that's attached. The attachment, the spreadsheet, is <MDR00044049>. We need to open it in native format.

The first tab is called "Front sheet". It shows the date in column A, the gross amount borrowed in column B, the net loan requested in column C and the cash actually sent across in column D. So LOG's loan, like all the others, was grossed up.

Column D, my Lord can see, is headed "Funds sent to LTD less all funding costs". So although this was to be a loan by LOG, these were drawdowns by LOG, the funds were sent to LTD.

My Lord can see the dates of the drawdowns. The first, as I said, took place on 21 March 2016.

MR JUSTICE MILES: As you know, Mr Robins, I'm trying to follow the exact companies in this case, which is not always easy, but in your skeleton, you say that this was paid to London Trading.

MR ROBINS: Maybe I have just fallen into that trap.

MR JUSTICE MILES: I don't know whether --

MR ROBINS: This could be London Trading and Development Group.

MR JUSTICE MILES: This is one of the tricky ones, because LTD can apply to both of those.

MR ROBINS: I may have mislead myself but assuming that I knew what I was talking about. Let's look at -- of course, the date has been typed wrong, hasn't it? It is 21/03/16. I'm looking in the wrong place. Can we look at <MDR00033457>. My Lord is right. This is 21 March 2016, subject "London Oil & Gas". Mr Hume-Kendall emails Mr Thomson:

"Dear Andy, further to our agreement on the facility for London Oil & Gas allowing us to meet the terms of our agreement with Independent Oil & Gas Plc and request if in future that funds are remitted to London Trading and Development Group Plc."

Then he says:

"LTDG is a 100 per cent owned subsidiary of London Group Plc and is acting as agent for London Oil & Gas." Mr Shaw is pointing out that's consistent with the bank statements which say "London Trading Dev". So our written submissions are correct. It is me explaining a moment ago that is wrong. So, it goes to London Trading & Development Group.

The drawdowns begin before there is any written loan agreement or any security in favour of LCF. We can see that from the email at <MDR00035715>. So the drawdowns, as I say, are starting on 21 March 2016. This is now 14 April 2016. Mr Lee emails Mr Sedgwick with the subject "London Oil & Gas facility", saying: "Hi Robert.

"As you know, I have instructions to prepare the facility and supporting security documentation." He goes on to mention some points about the security. So, the drawdowns have started before there is any signed facility agreement in place. We see further emails relating to the preparation of that document. The next is <MDR00035747>, where -- it must be on the next page. I'm looking for 15 April. At the top, Mr Lee says:

"Hi Robert.

"Understood. Let me know when you can get this as I am being pressed by LCAF to get the security agreed in principle and documented as soon as possible ..." Then he says:

"I have the draft of the facility almost completed -- the security is the part that needs dealing with -- so as soon as possible would be great." So, that confirms that there is nothing in place yet. He sends the first draft on the 27th, so it takes another 12 days for it to be circulated, <MDR00037561>. Mr Lee sends it to Mr Thomson:

"Please find attached the LOG facility agreement." There's then a further draft at <MDR00037784>. On the same day, Mr Lee sends to Mr Thomson a revised LOG facility. The attachment is <MDR00037785>. This is the draft document. On page 3, we can see that "Commitment" is defined to mean a gross sum of £20 million. Mr Lee sends that to Mr Sedgwick on the next day, that's <D8-0004174>. He says at the bottom: "Dear Robert.

"Further to our discussion yesterday please find attached the draft facility agreement for London Oil & Gas."

He says he is still dealing with the debenture. Mr Sedgwick says he will review and revert in due course.

But it isn't signed at this point. There is some further delay. At <EB0020235>, Mr Sedgwick emails Mr Hume-Kendall and Mr Barker with the subject "LCF facility agreement for LOG" and says:

"This is the facility agreement that LCF want LOG to sign for the £20 million loan facility." He makes some comments about the terms of it. But it is still not signed at this point. We can see that at <MDR00041147>. Mr Lee emails Mr Thomson with the subject "LOG facility" saying:

"Andy.

"Spoke to Robert. He tells me they weren't signing but getting it approved by the board (which he says they have done). It isn't signed and he said there were one or two comments."

So, it hasn't been signed but, as we have set out in our written submissions, the drawdowns continue. We then move into the first half of June, and at <MDR00044016>, my Lord can see that Mr

Sedgwick emails Mr Hume-Kendall and Mr Barker. He copies Clint Redman, a name we have seen before, who now pops up in the context of London Oil & Gas Limited. The subject is "LCAF facility to LOG". He says:

"Andy was pressing me yesterday to get the facility agreement and debenture for LOG duly executed. I attach copies of both documents and have left printed copies on Simon's desk."

He says he has also prepared and attaches the board minutes.

It's still not signed at this point. There are some further drawdowns. And then, eight days later, on 17 June, we see the email at <MDR00045648>. This is from Mr Thomson to Mr Barker, attaching the LOG loan profile, so it's the contemporaneous internal LCF document setting out the LOG drawdowns. The attachment that shows the state of play as at this date is <MDR00045654>. That's why I mentioned the 17th. The covering email is dated the 21st, but the final drawdown on the sheet is on 17 June. So the total is just over £2.9 million. It's all been drawn down without any facility agreement in place in the period from 21 March to 17 June.

There is then, on or around 20 June, a board meeting. The board minute is dated the 20th. That's at <MDR00006103>.

MR JUSTICE MILES: Sorry, Mr Robins, a point has occurred to me. On this grossing-up point, as you have called it, what does the -- so, the agreement says that they're making drawdown requests, they make drawdown requests up to 20 million. The amount that they are shown as borrowing then, here, from all of these drawdowns, amounts to 2.9 million, but they actually get 2.112 after funding costs.

What does the facility agreement say about the 25 per cent or the commission, or whatever it is? Is it silent about that?

MR ROBINS: We can look at it when we see the signed version in a moment. I think -- two points. First is, the 20 million is defined to mean a gross sum of 20 million. So, it's the gross figure that is the commitment limit. 20 million commitment doesn't mean 20 million in cash. The second point is -- we can try to find it when we get there -- there is some reference to the liability of the borrower to pay funding costs, which is, I think, the peg on which the 25 per cent is hung. But we can check that in a moment.

The LOG board minute is <MDR00006103>. As I say, it is dated -- I think it says 20 June, although it is quite hard to see what that says. Mr Hume-Kendall, Mr Barker, Mr Bosshard, Mr Ruscoe, Mr Starkie and Mr Hudson are said to have attended, and the business of the meeting, in 4.1(a), is to approve the £20 million loan agreement.

The facility agreement is then signed, and the signed version is <MDR00006307>. My Lord can see it's been backdated to 15 March 2016, presumably because that is a date before LOG's first drawdown. So, presumably, for the benefit of auditors, to give the impression that the drawdowns occurred after the facility agreement was put in place, rather than the other way around. The contents page is going to be page 2, I think. Or is that the parties? Let's have a look. That's contents. Then the parties is probably page 3. Then the commitment, as I mentioned, is a gross sum. I'm not sure any of those -- "Cost of Borrowing", capital C and capital B, is:

"... the sum which shall be added to any sum drawdown hereunder which shall have been incurred by the lender from time to time in raising the funds comprising the facility."

So, that's the reference that I have in mind which is the hook on which the 25 per cent is hung. We see that term in the operative provisions. I think if we go through to the early clauses -- I'm not sure we need any of those -- perhaps we can just go back and check the facility period, while we are here [page 4]. That's the irrelevant definition that we saw before. The final repayment date --

MR JUSTICE MILES: Can I go back to the commitment?

MR ROBINS: Sure. Previous page [page 3], please.

MR JUSTICE MILES: Yes, that's gross sum.

MR ROBINS: And commitment period, that was it, three years. So it is another three-year loan term. Then if we look at -- it is probably going to be something like clause 2 or 3 or 4. 2 is "The facility" [page 7], 3 is about drawdown mechanics. What's on the next page [page 8], please? That's about mechanics. "Interest" at the bottom:

"Payment of interest.

"The borrower shall pay interest on the gross sum of the loan at the interest rate."

And on the next page [page 9]:

"The funder's interest element of the interest rate shall be calculated by the lender from time to time ..." That's meant to reflect -- we will go back and look at the definition. I don't want to misdescribe it. So, there is the funder's interest and the interest rate, the two different elements. Then:

"Interest on the principal amount of the loan shall accrue daily on the basis of a 365-day year ..."

MR JUSTICE MILES: What's the definition of "Interest Rate"?

MR ROBINS: Go back to page 3, I think. It may be page 4. Next page, please [page 5]. Interest is 1.75. That's the lender interest. Then on the next page, "Funder" --

MR JUSTICE MILES: Sorry, don't take it too quickly, sorry.

MR ROBINS: It defines both here.

MR JUSTICE MILES: It is 1.75 plus the funder's interest.

MR ROBINS: Which is meant to reflect the interest payable by LCF to the bondholders.

MR JUSTICE MILES: Yes. Then the bit at the top --

MR ROBINS: I just mention it now because we will see in due course that creates an enormous problem in due course because LCF has issued various series of bonds at various different interest rates, from 3.9 to 8 per cent, the early series is 8.5. To calculate the funder's interest, you need to know which bondholder's money has gone to which borrower, and there are no records that enable that to be worked out. We will see what happens. There is a bit of a bodge job to try to fix the problem.

MR JUSTICE MILES: I'm just looking at the gross sum, which is another defined term. So that's the aggregate amount --

MR ROBINS: That's where we find it. I'm grateful to my Lord because I would have been looking in the wrong place.

MR JUSTICE MILES: So, that's drawdowns -- is this right? -- plus cost of borrowing.

MR ROBINS: Yes.

MR JUSTICE MILES: So you make a drawdown request for a certain amount, which is then -- if it's paid, it's paid. The gross sum is then the total of the drawdowns plus the cost of borrowing and the cost of borrowing is the cost to the funder of raising the funds.

MR ROBINS: Yes.

MR JUSTICE MILES: So, that's where the 25 per cent comes in.

MR ROBINS: That's how it works. There is also a debenture that's executed on the same day, <MDR00002278>. This is dated 20 June. So, we think that's consistent with the board minute. That's the date on which these documents were signed up.

On page 2, on the left-hand side, there's a reference to the "Facility Agreement" with a capital F, capital A. It is defined to mean:

"... the facility agreement entered into on the date of this deed between the chargor as borrower and the lender as lender."

Which confirms that the true date of the facility agreement is 20 June, not, as it says on its face, 15 March."

Security is provided over the investments that LOG is making in IOG. Further drawdowns then take place over the second half of 2016 and during 2017, and LOG is effectively on-lending the money to Independent Oil & Gas and also to Atlantic Petroleum, although, as my Lord has seen, the Atlantic loan is much smaller and it is really the Independent Oil & Gas investment that is much larger and that represents where most of the monies borrowed from LCF go.

There are obviously incidental expenses that LOG pays, salaries and so on, but a lot of the money is invested in Independent Oil & Gas. That takes LOG way over the £20 million commitment that we saw in the agreement.

By 12 October 2017, LOG is considerably in excess of the commitment. We see that from <MDR00106611>, where Eloise Wade emails Katie Maddock, who is, as I said, the LCF administrative staff. She says:

"Hey.

"Colina, Costa, Cape Verde and Waterside have uploaded facility agreements and details match on the loan profiles.

"LOG is £2,869,837.58 over their credit limit." She makes some comments about the position of the other borrowers. That continues to be the case. By 6 March 2018, LOG owed almost £38.4 million to LCF, and we can see that from <MDR00134099>. We need to open it in native format. We need to go to, I think, the first tab. Yes, that's the familiar tab. It gives the dates, the gross amount, cost of funds, the fee and the cash advance. If we look at cell B126 --

MR JUSTICE MILES: Is there a formula for cost of funds? Is that 25 --

MR ROBINS: I think it is linked to another tab of this spreadsheet and I'm not sure the links work. Let's click on something in column B. That refers to a ledger. Then column C.

MR JUSTICE MILES: All right.

MR ROBINS: Oh, Mr Shaw helpfully points out there is a tab called "Ledger". I don't know if that sheds any light on it, but I hadn't previously managed to get to the bottom of it all. Maybe we will look into that. On the "New drawdowns" tab where we see the familiar columns, my Lord can see, by 6 March, in A124, LOG owes the sum in A126. So it is way over the £20 million commitment by this point. It is significantly outside the facility limit. That causes a problem because BDO are auditing, or preparing, LOG's accounts. They're liaising with Michael Peacock in respect of that. We see, at <MDR00133709>, an email exchange. If we go to page 2, we can see that, on 7 March, about a fifth of the way down the page, Ryan Ferguson of BDO has emailed Michael Peacock, copying others, including Mr Hume-Kendall, and he says:

"Thanks Michael.

"That makes sense. Essentially the £50 million LCF facility is key, not least to meet the IOG drawdown on the £10 million. We will need to see a signed/binding version of this before sign-off but presumably that is due imminently given the IOG facility has been signed to ensure LOG isn't left exposed."

So, BDO have been told that there is a £50 million facility and they want to see a copy of it. On page 1, Mr Peacock forwards that to Mr Sedgwick to say:

"Hi Robert.

"Just a heads up

"I shall need to see the signed (and bound) LCF-LOG facility document before audit sign-off as noted below." So that is an audit that BDO are undertaking. At <MDR00133748>, if we can look at the next page, please, Mr Sedgwick, on 7 March, emails Mr Elliott. He copies Mr Peacock and Mr Hume-Kendall among others, with the subject "LCAF facility" and he says:

"Simon has spoken to Andy at LCAF who has confirmed that Andy has a letter agreement extending the initial facility agreement to £50 million and that the current negotiations as to the terms of the facility will lead to a new facility of up to £100 million. We should have a copy of the extended facility agreement by midday tomorrow. Please advise BDO accordingly." On the first page, Michael Peacock emails Ryan Ferguson of BDO to say:

"Hi Ryan.

"Just to confirm for the purposes of your post balance sheet review ... Simon has spoken to Andy at LCAF who has confirmed that Andy has a letter agreement extending the initial facility agreement to £50 million ..."

And it is the same paragraph. He has copied it and pasted it into his email. So, that's 7 March. Two days later, on the 9th, we see <MDR00134332>. Mr Lee provides Mr Thomson with a draft side letter, as he describes it. He says:

"Not sure who is signing on behalf of LOG but we ought to have a minute probably?"

The draft side letter attached to this email is <MDR00134334>. My Lord will see it is a side letter addressed to the directors of London Oil & Gas. It is undated at this point. There is no date on this version. It says:

"In consideration of the sum of £1 (receipt of which is hereby acknowledged) LCF agrees as that ..."
Something has gone wrong with the wording. It should probably be "agrees that":

"1. The amount of the commitment is amended to be £50 million from the date hereof."

So the date is going to be important, but it is currently undated.

The next thing we see is an email from Mr Lee, <MDR00134357>. Mr Lee emails Mr Thomson, copying Katie and Eloise. He says:

"Hi Andy.

"Further to your call just now ..."

So they have spoken:

"... please find the draft side letter as requested."

He attaches a further version of it. He says: "LOG signatory need to be inserted."

The attachment is <MDR00134358>. At the top, there is a date, 1 December 2017. As my Lord saw, these emails are 9 March 2018. So, it seems that, in the conversation between Mr Thomson and Mr Lee, Mr Thomson has said, "Well, the date at the top has to be 1 December. Can you add that and send it back to me?", and Mr Lee complies with that request.

At <MDR00134415>, we see a further couple. This is on LCF paper. It's been signed now by Mr Thomson and Mr Hume-Kendall, and the date at the top is still 1 December 2017.

Then at <MDR00134435>, if we go to page 2, we can see that Eloise Wade, on 9 March 2018, sends an email to Mr Peacock with the subject "LOG facility agreement". She says:

"Please find attached the LOG facility amendment agreement."

That's the side letter we were just looking at. On the left, Mr Peacock sends it to BDO:

"Here is the London Capital & Finance facility agreement confirmation as promised."

So BDO are led to believe that the letter was signed on 1 December 2017, and that the LOG facility always remained within the commitment limit, when, in fact, that's not the case. But that's how we get to the position of the £20 million commitment turning into a £50 million commitment. That's the backdrop for the payments that were made to Mr Thomson, Mr Hume-Kendall, Mr Barker and Mr Golding under LOG's facility. The simplest place to find the detail relating to this is our opening written submissions at <A2/1/132>. We say in H3.1:

"As explained above, there was what Alex Lee described as a 'payment holiday' under the Prime SPA after 29 January 2018."

I told your Lordship about that yesterday. We say in H3.2:

"D1, D2, D3 and D4 were keen that the flow of monies from LCF to their personal bank accounts should not be interrupted ... they sought to find a new way to justify the extraction of monies from LCF. The solution on which they alighted was to draw monies under LOG's facility for payments to D1, D2, D3 and D4." Over on the next page [page 133], at the top, in H3.3, we explained:

"On 2 February 2018, [Mr Thomson] emailed Katie Maddock and Katy Eaves to say 'Please can you send Elten the available funds figure tomorrow when you have it'."

And Katy Eaves emailed Mr Barker saying: "Good morning, Elten. We have £1.95 million to lend today."

As before, the footnotes are drafted to contain references to the disclosed documents. We might as well look at the document mentioned in footnote 1194. It is <MDR00126617>. Mr Thomson's email. He says: "Hi Katie's.

"Please can you send Elten the available funds figure tomorrow when you have it."

So the description we provide, as I say, is supported by the documents which are hyperlinked in the footnotes.

If we go back to <A2/1/133>, we can see that, after the end of H3.3, after Katy Eaves emails Mr Barker to tell him there's £1.95 million available to lend, in H3.4, Mr Barker prepared a spreadsheet of what he described as "Preference share payments" showing proposed payments of £450,000 to Mr Golding, £450,000 to Mr Hume-Kendall, £50,000 to Mr Barker and £50,000 to Mr Thomson.

We should look at that. It is an important document. It is <EB0077050>. It is the document mentioned in footnote 1196. We need to open it in native format.

It is entitled "LPC Preference Share Advance Payments". My Lord can see, in row 4, there's a date of 3 February 2018. The total pref share payment is said to be £1 million, and it divides it between the four individuals in the sums that I just mentioned. This is prepared before any payments are made, but it's plain that it is anticipated that the payments will be characterised as LPC preference share advance payments.

If we go back to <A2/1/133>, I need to make a correction to the first sentence of H3.5. Charitably, it's overly abbreviated; uncharitably, we have got it wrong. The preference shares had been issued to London Group LLP, the designated members of which were Mr Hume-Kendall and Mr Barker. We can see that at <A1/5/82>. This is in schedule 1. This is part of the section dealing with LPC and my Lord can see that, from 1 May 2018 -- well, in fact, no. Above that, if we go to the previous page [<A1/5/81>], from 23 October 2017, the share capital is as set out at the top of the next page [<A1/5/82>]. London Group LLP, in the second row, owns 25 million redeemable preference shares in London Power Corporation Limited. So, it seems to be envisaged by Mr Barker that the payments that will be made are going to have something to do with those redeemable preference shares.

MR JUSTICE MILES: Again, I could do with some help here on the corporate structure, and so on, as to what --

MR ROBINS: LPC owns LOG by this point.

MR JUSTICE MILES: Right.

MR ROBINS: Various individuals held shares in LOG, and then there was a share exchange where they exchanged their shares in LOG for shares in LPC, which became the new Topco. We will see in a moment Mr Thomson asked if his shares could be issued to his father, Ronald Thomson.

MR JUSTICE MILES: When did that happen? When did LPC become the owner of LOG?

MR ROBINS: The date of that is going to be on the LOG page, which I'm guessing is going to be the previous page. Let's have a look. Can we go back one more? No, that's London Power Consultants. One more. One more. London Oil & Gas Limited. So, 18 May 2017. So, LPC owns LOG. There are

various classes of share in LPC, as we saw -- ordinary share, ordinary A share. 25 million redeemable preference shares. That was back on page 82.

MR JUSTICE MILES: So, at this stage, it's London Group LLP, LPC, LOG?

MR ROBINS: Yes. Insofar as the preference shares are concerned. There are other -- if we go back to <A1/5/81> and <A1/5/82>, my Lord will see that there are other classes of share held by other people. There are ordinary B shares and ordinary A shares.

MR JUSTICE MILES: So, this is February 2018. Okay.

MR ROBINS: So, London Group LLP owns the preference shares in LPC, and Mr Barker seems to think that these payments are going to have something to do with that. If we go back to <A2/1/133>, we mention, at the end of H3.5, that the initial intention seems to have been that the proposed payments would relate to the preference shares.

In H3.6, we explain that, on the same day, 2 February 2018, LCF paid a little over £1.5 million to LOG, which paid £1 million of that money to London Group LLP with the reference "Pref share advance", and that's the reference in the bank statement.

H3.7, London Group LLP paid £450,000 of that money to Mr Golding, £450,000 to the joint account of Mr and Mrs Hume-Kendall, £50,000 to Mr Barker and £50,000 to Mr Thomson, each with the preference "pref share adv". Those are the payments that Mr Barker put into the spreadsheet.

Let's look at the first document in footnote 1200. My Lord can see that's <MDR00220330>. We need to look at page 13. This is the London Group LLP Metro Bank statement. Page 13 shows us the payments with that narrative "pref share adv". My Lord can see those on that page, the 50, 50, 450, 450. So, as I say, the payments are being characterised as having something to do with preference shares. Mr Barker had said LPC preference share advance payments.

If we go back to <A2/1/133>, we were looking at H3.7. In H3.8, we explain that, a week later, on 9 February 2018, LCF paid a little over £1 million to LOG, which paid £1 million to London Group LLP, which paid the same amounts, £450,000 to Mr Golding, £50,000 to Mr Barker and £50,000 to Mr Thomson, with the same reference, "pref share adv", but, for some reason, the sum of £450,000 to Mr Hume-Kendall wasn't transferred into his personal account but was instead transferred to another London Group LLP account. So his share, for some reason, went into another London Group LLP account, but the others got their entitlements into their bank account. I say "entitlements". There is no agreement of course at this point that anyone is entitled to anything.

H3.9. On 16 February 2018, Mr Thomson emailed LCF's administrative staff to say:

"I've spoken to LOG and they should be drawing £1.9 million today."

LOG then submitted a drawdown request in the sum of £1.853 million. LCF paid a little over that to LOG, which paid £900,000 to London Group LLP with the reference "pref share adv".

Then, on the next page, H3.10, London Group LLP used these monies to pay £634,375 to Mr Golding, £158,750 to Mr Barker and £72,500 to Mr Thomson, all with the reference "pref share adv". Again, Mr Hume-Kendall's payment, in the sum equal to the sum paid to Mr Golding, was, for some reason, transferred into another London Group LLP account, rather than into Mr Hume-Kendall's personal account.

Then H3.11. A short time later, on

19 February 2018, LOG paid £600,000 to London Group with the reference "pref share adv". LCF, on the 22nd, paid another £422,000-odd to LOG. Then the day after that, LOG paid a further £600,000 to London Group with the reference "pref share adv".

As we point out in H3.12, London Group used the monies to make the payments that we have set out. Again, for some reason, there was no payment to Mr Hume-Kendall's personal account on this occasion. The monies were, however, paid to Mr Golding, Mr Barker and Mr Thomson in accordance with the ratios. Then H3.13. A short while later, on 26 February, LOG paid £400,000 to London Group LLP with the reference "pref share adv" and London Group paid £437,500 to another London Group account. We assume that's on behalf of Mr Hume-Kendall, given that that sum was equal to the payment that had been made to Mr Golding on the 23rd.

Then H3.14. On 12 March now, 2018, LCF paid a little over £551,000 to LOG. The next day, D1, Mr Thomson, asked one of LCF's administrative staff, "What's the maximum amount we can loan out today?", and she replied to say £380,000 was available. LOG then submitted a drawdown request for £360,000 and LCF paid a little over that to LOG.

Then H3.15. On the 14th, LOG paid £500,000 to London Group with the reference "pref share adv" and London Group made the payments set out to Mr Golding, Mr Barker and Mr Thomson, with the reference "pref share adv".

Then if we go to the next page, H3.16, we mention that Mr Hume-Kendall's payment in the sum equal to Mr Golding's payment was again transferred into another London Group LLP account with the reference "pref share adv SHK".

In H3.17, we mention that on 16 March 2018, Mr Golding sent a text message to Mr Barker, stating: "Morning, should be about £1 million available today. From Andy."

The footnote to that is 1225. Let's look at the document. It's <EB0083707>. I have transposed it on this occasion. It is Mr Barker's text messages. We can see, at the top, he gets in blue a message from Spencer: "Morning. Should be about £1 million available today. From Andy."

Mr Barker replies by telling him about some -- it says:

"Total funds in since Monday £2.371 million of which £297,000 is uncleared cheques from JRM."
Spencer says, "Nice."

Mr Barker says:

"Can you call SHK to see what we need for LOG payments before I call him, thanks."

So the information about the funds available in LCF's account seems to have been provided by Mr Thomson to Mr Golding, who then passes that on to Mr Barker. If we go back to where we were, <A2/1/135>, we were looking at H3.17. So, after that exchange, there's then a drawdown request from LOG to LCF in the sum of £1 million, signed by Mr Barker. There is a further text message from Mr Golding that we mentioned: "Just had the actual available figs £1.87 million." LOG then sent a revised drawdown "as requested" in the sum of £1.8 million signed by Mr Barker. So, it seems that the initial information was rather approximate, "about £1 million", giving rise to the drawdown request of 1.1, but then there's a more accurate figure provided of £1.87 million and that results in the revised drawdown request. LCF pays that, as we mention in H3.18, and LOG uses the money to pay £1.3 million to London Group LLP with the reference "pref share adv" and London Group LLP then makes the payments that we have set out to Mr Golding and Mr Thomson.

In H3.19, we mention that the equivalent payments for Mr Hume-Kendall and Mr Barker were transferred to the other London Group LLP account with the references "SHK pref share adv" and "EB pref share adv". The spreadsheet that was being updated as they went along had the narrative added to it "payment transferred to LG LLP savings account". So that seems to be the way in which the other London Group account is described. In H3.20, we are now on to 6 April 2018. LOG submitted a drawdown request in the sum of £2.3 million. LCF paid a little over £2.3 million to LOG, which paid a little over £2 million to London Group. In H3.21, London Group paid £787,500 to Mr Golding, £135,000 to Mr Barker and £90,000 to Mr Thomson with the reference "pref share adv".

I think this is where Mr Barker has gone up to 7.5 per cent but Mr Thomson is still on 5 per cent. In H3.22, Mr Hume-Kendall's payment of £787,500 was not transferred into his personal account but was instead transferred into the other London Group LLP account with the reference "pref share adv SHK", and the spreadsheet recorded a preference share payment in that amount for Mr Hume-Kendall with the note "payment transferred to the LG LLP savings account". Then, over on the next page, H3.23, we mention that the payments for Mr Hume-Kendall which had not been paid to him directly but had been transferred to that other London Group account were used, on 10 April 2018, to fund payments of £200,000 to Mr Hume-Kendall and £97,500 to Mr Barker, with the reference "pref share adv". That took place on 10 April.

H3.24, London Group LLP made a further payment of £60,000 on the 13th to Mr Hume-Kendall's company LV Management with the reference "pref share adv". Then there are further payments funded by LCF -- £2 million by LCF to LOG, in H3.25, on the 13th. LOG paid £2 million to London Group with the reference "pref share adv".

H3.26. London Group LLP then made the payments we have set out, over £828,000 to Mr Golding, over £146,000 to Mr Barker, and then, a day later, £200,000 to Mr Hume-Kendall and £146,000 to Mr Thomson, all with the references "pref share adv". We mention that the payment to Mr Hume-Kendall was made from that other London Group LLP account.

H3.27. On the 20th, LOG submitted a drawdown request of £1.62 million and LCF paid a little over that to LOG which paid £1.39 million to London Group, which then made the payments that we have set out -- over £608,000 to Mr Golding, over £104,000 to Mr Barker and over £104,000 to Mr Thomson, and then, a few days later, £200,000 to Mr Hume-Kendall from the other London Group account.

In H3.28, something slightly different happens. On 27 April 2018, London Group LLP transfers £650,000 from two separate accounts to a firm of solicitors called Keogh Caisley LLP with the reference "Elten Barker", and these were treated as being preference share advances in favour of Mr Hume-Kendall, so we assume that there was some agreement between Mr Hume-Kendall and Mr Barker that he would be loaning the monies to Mr Barker. Then H3.29, on 1 May 2018, London Group LLP paid £500,000 to Mr Barker with the reference "SHK loan". Again, those were treated as preference share advances in favour of Mr Hume-Kendall, so we assume there was some private loan arrangement between them. Just to pause at this point, my Lord has seen that all the payments have gone through London Group LLP. There then arises a problem.

At <D2D10-00044289>, this is a letter, we can see at the bottom of the page, from Metro Bank Plc to Mr Hume-Kendall and Mr Barker of London Group LLP. It is dated 29 March 2018. Metro Bank say: "We regret to inform you that, following a review of your accounts with us, and after careful consideration, we are unable to continue to act as your bankers. "We are therefore writing to give you formal notice that in 60 days from today's date at the close of business on the 28th May 2018

your accounts with us will be closed and our contract with you ended in accordance with our right under term 12.2 of the Metro Bank business account terms and conditions." We see a related document at <MDR00224850>, where Metro Bank write in the same terms to London Oil & Gas Limited, saying that its account will also be closed with effect from 28 May 2018.

So, it is not going to be possible to make payments through London Group LLP after that date. As I say, this is 29 March. There's a window in which some final payments can be made through London Group LLP, but then this conduit is going to be shut.

If we go back to <A2/1/137>, we can see in H3.30 and H3.31 that, after the closure of the accounts, so on 5 June 2018, LOG submitted a drawdown request to LCF in the sum of £1.1 million payable to London Power Consultants, Mr Barker's company formerly known as Wealden Consultants. LCF paid £1.102 million to LP Consultants.

H3.31, LP Consultants then paid £32,500 to Mr Barker, £32,500 to Mr Thomson, and then, the next day, and the day after that, £487,500 to Mr Golding, £50,000 to Mr Barker and £50,000 to Mr Thomson. So the London Group LLP account is closed and the money goes through London Power Consultants instead. We can see some documents relating to that at <MDR00152091>. That's the draft drawdown request from London Oil & Gas to London Capital & Finance asking for the sum of £1.1 million to be paid to the account of London Power Consultants Limited.

Then <MDR00152258>. At the bottom of page 1, we can see Katy Eaves emailing Lucy Sparks, who we think is Mr Barker's assistant, copying Chloe Ongley and Katie Maddock to say:

"Hi Lucy.

"We have processed the attached drawdown." That's the £1.1 million to London Power Consultants. At <MDR00224026> is the bank statement of London Power Consultants. On page 3, we should be able to see that there are, about two-thirds of the way down the page, the two payments to Mr Barker and Mr Thomson of £32,500. Then the £1.1 million comes in from LCF and that funds the payments of £50,000 to Mr Barker with the reference "pref share adv", £50,000 to Mr Thomson with the reference "adv share" and £487,500 to Mr Golding with the reference "adv share".

Because Mr Thomson takes a point on this, we should see it in his bank statement as well, <MDR00173805>. This is his bank statement, Mr Thomson's bank statement, for his account with First Direct. On pages 14 to 15, we can see those sums coming in from the London Power Consultants. It says:

"Lon Ltd No2 Acc 32,500."

Then, on the next page [page 15], 7 June 2018, it says:

"London Power Consu £50,000."

So, after the closure of the London Group LLP bank account by Metro Bank, there are some payments that are made through London Power Consultants. But there must also have been a perceived risk that the same thing would happen to London Power Consultants and that its bank accounts would be shut, because Mr Thomson had been working on setting up alternative payment arrangements via LCF's payment processor GCEN.

I think it is a couple of weeks before the date on which the London Group LLP account will close. 14 May is the date of the email. We can see it at <MDR00147837>. Mr Thomson is liaising with Mr Tofts who is head of Malta operations for GCEN. At the bottom of the page, on 14 May, Mr Tofts says:

"Hi Andy, thanks for your call. To confirm, I will set up a new profile on our system for LCAF -- corporate. This will be run through GCEN rather than GCS and you'll be able to handle payments this way. "If you could just confirm the borrower's company name that you'll be making payments on behalf of initially and how you want the sign-off process to work (ie who are the signatories, et cetera) and if you want call backs or to process online I'll get everything set up tomorrow."

At the top of the page, Mr Thomson says: "Hi Luke.

"Thanks for your email.

"The company we will be making payments on behalf of is Prime Resort Development Limited.

"For the moment, the authorised signatories will be: "Andrew Thomson.

"Katie Maddock.

"Chloe Ongley.

"Katy Eaves.

"Is it possible to have an email instruction process detailing the payments that need making." That's what Mr Thomson tells Mr Tofts.

On the next day, <MDR00147847>, Mr Tofts says: "Hi Andy.

"Thanks for confirming this. I'm getting everything set up for you this morning.

"I'm not sure if we have documents for Katy and Chloe but if they're instructing outbound payments I'll need to have them on file, shall I email them directly? "Email instruction isn't a problem. Especially initially I'd like to add a call back for all new beneficiaries if that's okay? It covers everyone in the event of email hacking fraud.

"As I mentioned, we'll run these payments through GCEN so once everything is live I'll send you the GCEN bank account details so you can make payments into that."

There is a further email from Luke Tofts, <MDR00147909>. Mr Tofts emails Mr Thomson on the same date to say:

"Hi Andy, please see the payment template attached as well as the bank details to use.

"As agreed over the phone, the process will be: "Spreadsheet will be compiled and emailed to GCEN (initially to me as Leyla isn't in the office at the moment) ...

"We will call you back personally to confirm the payments.

"A charge will be added of 0.2 per cent for all payments.

"Down the line we can add online capabilities and have dual signatories but for now let's stick to emails. "The account's ready to use now so just let me know when you want to start using it."

At <D1-0007316>, the very next day, 16 May 2018, at the top of the page, Mr Barker emails Mr Thomson to say: "Morning.

"Bank details for GCEN if you need them while I'm away.

"Thank you.

"E."

He provides the sort codes and account numbers for EB, SG and SHK.

The next day, 17 May, at <D1-0007361>, it seems that Mr Barker is indeed away because he emails Mr Thomson to say:

"Meant to send you percentages for the sale of LPC pref shares:

"SG 42.5 per cent.

"SHK 42.5 per cent.

"EB 7.5 per cent.

"RT 7.5 per cent.

"Back to the pool!"

So, those are the ratios that we saw in the spreadsheet. Mr Thomson has now gone up to 7.5 per cent to match Mr Barker. The reference to "RT" might have been a typo, he might have meant to say "AT", Andrew Thomson, or "MT", given Mr Thomson's first name, but it might have been a misrecalled notion on the basis that Mr Thomson's ordinary shares in LPC were held by his father, Ronald. Mr Barker may have been getting muddled up and thinking that this was RT rather than AT, or something like that, but the preference shares, as I said, were held by London Group LLP, and my Lord has seen who the owners of London Group LLP are, they are four individuals, not including Ronald Thomson. But one can see how Mr Barker might have made that mistake, because Ronald Thomson held Andrew Thomson's ordinary shares.

We can see the origin of that at <D1-0002386>. So, we are winding back more than a couple of years to 1 March 2016, when Andy Thomson writes to Mr Hume-Kendall:

"Dear Simon.

"Issue of shares in London Oil & Gas Limited. "Further to our recent conversation I note that it is intended to issue to me shares in London Oil & Gas Limited in accordance with the terms of our agreement last year. I confirm that I would request that you issue the shares which you were going to issue to me to my father Ronald Thomson and I confirm that issue of these shares to him will discharge your obligation to issue any shares in London Oil & Gas Limited to me." The ordinary shares were issued to Ronald Thomson, but it's clear that Ronald Thomson was Mr Thomson's nominee in respect of those ordinary shares. We can see that from <D1-0006218>. On 1 February 2018, Ronald Thomson sends a letter to the directors of London Power Corporation Plc:

"Dear Sirs.

"Re: Payments linked to shareholding in London Power Corporation Plc.

"I would be grateful if you can arrange for all payments linked to the shares held in my name in London Power Corporation Plc to be paid into the below account."

And it is Mr Thomson's First Direct account. So there were some ordinary shares held by Ronald Thomson as a nominee for the first defendant, but that has nothing to do with the LPC preference shares which were held by London Group LLP. So, it may be that it was just a typo and Mr Barker put "RT" because he was drinking cocktails by the pool, but it might have been that he was misremembering the shareholding position and thinking that he should say "RT" rather than "AT".

MR JUSTICE MILES: How many preference shares were there?

MR ROBINS: 25 million, my Lord.

MR JUSTICE MILES: Of £1 each?

MR ROBINS: Yes. We will see a bit more about those in due course, but I notice the time.

MR JUSTICE MILES: Yes. I am going to have to rise promptly at 12.50 pm today, just so you know, but we will take the five-minute break now. Thank you.

(11.48 am)

(A short break)

(11.55 am)

MR ROBINS: My Lord, we saw the emails where Mr Thomson is setting up the GCEN payment facility, we saw Mr Barker's email with the ratios of 42.5:42.5:7.5:7.5. I'm not sure if we have seen this one, maybe we have, <MDR00154580>. This is another email from Luke Tofts dated 15 June and it says:

"Hi Andy.

"Thanks for your call last night, everything is in place for this account so it's all ready to use." He mentions also the famous spreadsheet that was mentioned before. In the third paragraph, he mentions the "charge of 0.2 per cent for all payments we process". He asks:

"Do you want us to add this on to the total amount or deduct it from the outbound payment? For example, if we're instructed to pay £1,000 do you want us to send out £1,000 in full and charge the £2 separately or make a payment of £9,998?"

Then <MDR00154620> -- can we see the next page as well? Mr Thomson says:

"Please can you send the funds less the charge, so in your eg you would send £9,998."

On the left, Luke Tofts replies:

"Thanks for confirming and sorry we got cut off just now. Everything is in place so let us know whenever you're ready."

On the same day, <MDR00154613>, Mr Thomson emails Katie Maddock to say:

"Hi Katie.

"Please can you send £5.5 million to the below account.

"I'll give you a call a little later to talk it through but just need to get the funds to GCEN in preparation."

And LCF pays the £5.5 million, or a little over that, to GCEN. We can see that at <MDR00007010>. It is LCF's bank statement with Lloyds Bank. At the bottom of page 7, there it goes, £5,500,067.50 going out to GCEN. This is treated as being a drawdown on LOG's facility with LCF. We can see that at <MDR00159345>, in native form. It is the spreadsheet in the familiar form. This is a slightly later version than the version we saw previously. In row 159, my Lord can see, in column E, the sum that we just saw in LCF's bank statements of a little over £5.5 million. The grossed-up figure is £7,586,300.

By this point, LOG owes in excess of £69 million to LCF. So that goes into GCEN's account on 15 June. On 22 June, <MDR00220173>, Mr Barker emails Mr Thomson to say:

"EB 7.5 per cent."

And gives his bank details:

"SG 42.5 per cent", and gives Mr Golding's bank details, "SHK 42.5 per cent", and gives Mr Hume-Kendall's bank details. Also on that date, although, as my Lord saw, the payment was made to GCEN some week previously, there's a drawdown request from LOG. It's at <MDR00156012>. It is signed by Mr Barker. He's got the figure wrong because he said "Amount of loan: £4.5 million". But my Lord has seen it was actually £5.5 million. It says in red, bold, underlined text in the middle of the page, "Funds to be distributed via GCEN ". At <MDR00156042>, we see that Lucy sends that to Chloe, who forwards it to Mr Thomson. Then <MDR00156052>. At the bottom of the page, Mr Thomson, on the same day, emails Luke Tofts of GCEN with the subject "Payments from LCAF distribution accounts" and he says:

"Hi Luke.

"Please can you distribute the £5.5 million held in the LCAF distribution account to the below payers [I think he means payees] in the amounts highlighted less the agreed payment fee."

For Mr Barker, it's £412,500, for Mr Golding, £2,337,500. For Mr Hume-Kendall, the same, £2,337,500. And for Michael Thomson, it's £412,500. He says: "If you have any questions or require any confirmation I am available on my mobile." My Lord knows Michael is Mr Thomson's first name. That's him and that's his bank account. Luke responds, in the top half of the same page: "Hi Andy.

"Thanks for your email, Leyla will instruct these for you now.

"Just to confirm, this payment is on behalf of one of your borrowers, London Power Corporation. LPC are purchasing a company that is owned by the individuals below, hence the payments to personal accounts." That seems to be what Mr Thomson has told him: Luke wants to make sure it's recorded in writing, the communication between them. He continues: "On Monday if you could send me an outline of the purchase, supporting documentation and if you could also outline a valuation and how it was agreed it would be really helpful to cover off conflict of interests. Sorry to be asking for war and peace, but as we're making payments from investor money to personal accounts, including yours, we need to ensure it is documented thoroughly. If compliance ask and I don't have thorough documentation they'll castrate me!!" "For other payments we won't need anything like this amount of information though.

"Hope you have a good weekend and look forward to seeing you on Monday."

Mr Thomson responds at <MDR00156072>:

"Many thanks for organising. I will arrange for the details to be sent when I'm back in the office. Have a great weekend and look forward to seeing you and Andrew on Monday."

So there is no supporting documentation at this point, but the payments are processed. The GCEN statement is <MDR00220172>. My Lord can see the payments going out. Mr Thomson, at the bottom of the page, Mr Hume-Kendall above that, Mr Golding above that, and, just above that, Mr Barker, and the GCEN fee has been deducted.

We see the money coming in to the recipients' bank statements. For example, for Mr Thomson, <MDR00173805>. This is Mr Thomson's bank account. Page 18. There it is about two-thirds of the way down the page. So, that's the first set of payments through GCEN. There is then another, in very early July, <MDR00157578>. Lucy sends a drawdown request to Chloe, Katie and Katy, subject "LOG drawdown request":

"Morning Ladies.

"Please find attached a drawdown request for LOG." The attached request is <MDR00157579>, signed by Mr Barker in the middle of the page in red again: "Funds to be distributed via GCEN."

So LCF complies and pays a little over the requested amount to GCEN and, at <MDR00157808>, at the bottom of page 1, Chloe tells Lucy that it has been processed. <MDR00157732> is an email from Mr Thomson to Luke Tofts on the same day:

"Hi Luke.

"Please can you distribute the £1.9 million held in the LCAF distribution account to the below beneficiaries, the bank details are the same as the previous £5.5 million distribution."

For Spencer Golding it is £711,250, for Mr Hume-Kendall it is £711,250, for Mr Barker, £150,750 and for Michael Thomson, as Mr Thomson describes himself, it is £352,000.

Leyla of GCEN tells Mr Thomson that it's been processed. That's <MDR00157950>:

"Hi Andy.

"I can confirm they have all been processed for you to go out today."

He says, "Thank you Leyla."

We see that again in the GCEN statement, <MDR00220172>. Page 2. We see, at the top of the page, the money coming in, and then the various payments going out, again, net of GCEN's fee. Again, we see them in the bank statements, for example, for Mr Thomson, <MDR00173805>, page 19, at the bottom of the page. So, as my Lord has seen, when the payments were made through London Group LLP and London Power Consultants Limited, they were characterised as having something to do with LPC preference shares, and Mr Thomson seems to have told Luke Tofts of GCEN that it was something to do with LPC, although his description was slightly different. He seems to have said that LPC were purchasing a company owned by the individuals. The characterisation given to these payments was subsequently changed and they were, instead, said to be payments in connection with what were described as the technology companies -- Asset Mapping, London Artificial Intelligence and Reserec.

We can see that very clearly from the spreadsheet <EB0123432>. This is what becomes of the spreadsheet that was headed "LPC Preference Share Advance Payments". The heading has been changed. It now says "LPC Technology Share Payments".

The payments via GCEN are noted in purple.

MR JUSTICE MILES: Sorry, I just want to look at this. Now, this goes back to February 2018.

MR ROBINS: Yes.

MR JUSTICE MILES: Is that the same --

MR ROBINS: That's the first payment we saw --

MR JUSTICE MILES: That was the first payment that was shown in that other spreadsheet, is it?

MR ROBINS: Yes, that's right.

MR JUSTICE MILES: So it's the same date.

MR ROBINS: Exactly. It's the payment that we saw in H3.6 and H3.7 of our written opening submissions, the 450, 450, 50, 50. Then, as I mentioned earlier, there was a subsequent payment in the same amount on the 9th, that was H3.8 of our written opening submission.

MR JUSTICE MILES: The heading at the top, that was --

MR ROBINS: "LPC Preference Share Advance Payment". So, they were made under one guise and then really characterised as being LPC technology share payments. My Lord can see from cell B27, and B23 as well, that, by 3 July 2018, they total £20 million. 3 July is the payment date we just saw for the £1.96 million. So, that's -- the last payment we have just seen being made through GCEN is the drawdown on LOG's account, LOG's facility. So, up to and including the last payment we have just looked at, there is a total of £20 million. My Lord saw that Luke Tofts had asked for supporting documentation. Mr Thomson said he would arrange for the details to be sent out when he was back in the office. We need to have a look at what Luke Tofts gets and where it's come from. But to understand that, we need to go back a fortnight to 20 June 2018 at <EB0092616> when Mr Sedgwick sends an email to Mr Hume-Kendall and Mr Barker with the subject "Sale of ITI and LAI to LPT". He says:

"Here is draft share sale agreement for the sale of your shares in ITI and LAI to London Power & Technology Limited.

"This provides:

"1. The initial purchase price is £20 million of which £12.9 million has already been paid." "2. The balance shall be paid by 31 December 2018." And he sets out a number of issues which he says arise. The attachment is <EB0092620>. It is a draft share purchase agreement between Mr Hume-Kendall and Mr Barker as sellers and London Power & Technology Limited as purchaser. On page 4, we see the sale shares. It must be page 6, internal page 4. No, I've got it wrong. Let's go back. Is there a definitions page? Oh, no, it was that page, [internal] page 2, sorry, I missed it. It was at the top [page 4]: "Sale Shares: the shares in the companies specified in the 1st schedule."

Schedule 1 is page 11. The shares are shares in Intelligent Technology Investments Limited, which has 100 shares. The seller has 90, so that's what's being sold, and Mark Ingham holds the other 10, as a familiar name. The sale shares are the 90 ordinary shares held by the seller. So it's 90 shares or 90 per cent of ITI. Secondly, London Artificial Intelligence, it says there are 1,000 ordinary shares, the seller has 800 and Jagadeesh Gorla has 200. So sale shares are 800 ordinary shares in LAI, or 80 per cent of LAI. If we go back to page 5, we can see clause 2 is: "The seller shall sell ... and the buyer shall buy the sale shares ..."

The purchase price in 3.1 is £20 million. And 3.2 says:

"The sellers have already received £12.9 million from the buyer and the balance of the purchase price shall be paid in such instalments as the buyer shall determine by 31 December 2018."

So, that's the first draft of this document. The buyer is London Power & Technology Limited.

MR JUSTICE MILES: What is that company? Where does that sit?

MR ROBINS: Can we go back to page 3? We need to see the company number because there are two companies that are called London Power & Technology Limited at various times. This is company number 11424900. No, we are going to have to look, because the one we have got in the schedule to the neutral statement of uncontested facts is the other London Power & Technology. But I think, subject to checking, that it's a company owned by Mr Hume-Kendall and/or Mr Barker, but we will check that. It is the purchaser in the first draft. But ultimately, as we will see, it isn't the purchaser in the signed version because, on 3 July 2018, which is the same day as the GCEN payments which bring the total to 20 million, Mr Sedgwick sends an email at <EB0093297>. It is an email to Mr Hume-Kendall and Mr Barker with the subject "Sale of ITI and LAI to LPE" and he says: "Here is the agreement for the sale of ITI (90 per cent) and LAI to LPE Enterprises. "This was signed by Elten last week."

The attachment is a Word document which hasn't been signed, it is a Word document and there is no signature on it. We can see what it says. <EB0093299>. The buyer is now LPE Enterprises Limited. We can see from page 3 that that is the company with the company number ending 935. So that's a different company. We will see who owns it in a moment.

The definition of the sale shares on page 4 is the same, it still refers to the first schedule. The first schedule is on page 11. That's the same. The only difference, as far as I can see, other than the identity of the purchaser, is on page 5, where, in clause 3.2, it says:

"The sellers have already received £18,740,750 from the buyer and the balance of the purchase price shall be paid in such instalments as the buyer shall determine by 31 December 2018."

So, the amount stated in 3.2 is now a larger amount that's said to have been paid previously. This is what Mr Sedgwick says was signed by Elten "last week". A little later, on the same day, we see <MDR00157768>, an email from Nicola Wiseman to Mr Thomson, and she copies Mr Hume-Kendall and Mr Barker, with the subject "Share purchase agreement". She says:

"Please find attached the share purchase agreement between Simon Hume-Kendall, Elten Barker and LPE Enterprises Limited."

As I say, this email is dated 3 July 2018. The attachment is <MDR00157770>. My Lord can see the purchaser in this document is LPE Enterprises Limited. Mr Shaw has checked, just to mention it at this point, so that we have dealt with it, the London Power & Technology Limited in the first iteration or first draft of this agreement, with the company number 11424900, was incorporated on 20 June 2018, and Mr Hume-Kendall was the sole director and shareholder. We can get that from Companies House and put it into the trial bundle. But that was the first intended purchaser. In the signed version, the purchaser is LPE Enterprises Limited. I will tell my Lord in a moment who owns that. It's been dated 21 June 2018. Clearly, it's been backdated because, even if, as Mr Sedgwick had said, "it was signed by Elten last week", then it was signed at some point after 21 June 2018.

On page 10, we can see the signatures. Page 13, page 10 internally. Mr Hume-Kendall has signed it on behalf of himself and on behalf of the buyer, LPE Enterprises Limited, and Mr Barker has signed it in his own capacity.

The sale shares, on page 4, are still defined to refer to the companies specified in the first schedule, and the first schedule, on page 11, is in the format we have seen.

If we go back to page 5, we can see that clause 3.2 has now reverted to its original form, referring to prior receipts of £12.9 million. So, if the version with £18.9 million-odd is the version that was signed by Elten "last week", well, it's been amended and Elten has now re-signed, he's signed another version. This is the first time we have seen this version. It's got LPE as the buyer but it's got the 12.9 as the prior receipts figure in clause 3.2.

Presumably, the reason for this and for the date that's been put on the first page, of 21 June 2018, is that this document is meant to be justifying payments that were made by GCEN on and after 22 June 2018. The payment, in respect of which Mr Tofts said he would require documentation, was the first payment by GCEN on 22 June, so they need to give him a document that predates that. If the document is dated the 21st, then clause 3.2 has to refer to the lower amount because this document is based on the assumption that the payments through GCEN haven't been made yet.

My Lord saw this was sent to Mr Thomson. He forwards it to Luke Tofts. We see that at <MDR00160089>. He sends it to Luke a little bit later, two weeks later now, I don't know why he's delayed, but this is 17 July 2018. The email we just saw was the 3rd. There is no text. He just forwards the share purchase agreement.

To confirm that the attachment is the version we saw, that's <MDR00160093>. No, it is not. I will have to check that. It is a bad reference. But it is the same version that was attached, <MDR00160093> should be the document, but I may have got that wrong. Yes, I have got that wrong. But the correct document is the one -- my Lord can see that because he just forwarded the email from Nicola.

I said I would tell my Lord about the ownership of LPE Enterprises. We can see that in a structure chart at <EB0105453>. This is the technology structure chart current as at October 2018. LPE Enterprises Limited is owned by TW Private LLP, formerly London Private Equity LLP, the members of which are Mr Hume-Kendall, Mr Barker and London Group LLP, and the members of London Group LLP are Mr Hume-Kendall and Mr Barker.

MR JUSTICE MILES: Did I misunderstand a bit earlier on, because I thought you said at some point that the -- I thought you said on the transcript that London Group LLP was owned by the four individuals.

MR ROBINS: The designated members were Mr Hume-Kendall and Mr Barker; they were who you would see at Companies House. But the internal documents, like the Humphrey & Co document that we looked at yesterday --

MR JUSTICE MILES: Oh, I see. So, you say beneficial ownership is the four individuals. That's what you meant by that?

MR ROBINS: Yes, the Humphrey & Co document yesterday said the four individuals were the owners and it had after the table that note saying that Mr Golding's share was held by Mr Barker as his nominee.

So, by the LPE SPA, Mr Hume-Kendall and Mr Barker, as sellers, sold 90 per cent of ITI and 80 per cent of LAI to a company called LPE Enterprises Limited which was owned by TW Private LLP, the members of which were Mr Hume-Kendall, Mr Barker and an LLP, the members of which were also Mr Hume-Kendall and Mr Barker. There's a similar story told by <EB0109758>. I think this might be Mr Sedgwick's handwriting. We see that LPE Enterprises is owned by TW Private LLP, which is owned by SHK, EB and London Group LLP. There is an email <MDR00164464>. This is now 8 August 2014. Mr

Reid, at the bottom of the page, asks who the client is on the Asset Mapping issue, he asks if it is London Group LLP, and then, above that, Mr Sedgwick replies:

"I think that perhaps it could be Intelligent Technology Investments Limited, which is now owned as to 90 per cent by LPE Enterprises, which in turn is owned by Simon and Elten as members of TW Private LLP." So, this is August 2018. It is the same into the next year, <MDR00210617>. This is the technology structure chart current as at February 2019 and it is the same as the version that we just looked at. This is why we characterise the LPE SPA as a transaction by which Mr Hume-Kendall and Mr Barker were selling to themselves.

Mr Hume-Kendall's response to that is to say, "Ah, well, yes, although we sold the shares in LAI and ITI to LPE, which was owned by TW Private, TW Private then sold LPE to a company called LPT" -- this is another LPT -- "for a £1 acorn", that's the phrase he uses. We can see that at <C2/2/42>. This is Mr Hume-Kendall's trial witness statement. At the end of paragraph 151, he says:

"On 20 July 2018 LPT was incorporated and on 27 July 2018 TW Private sold LPE to it for a £1 'acorn'."

There is a document in those terms. It is <D2D10-00055044>. On page 1, my Lord can see it is dated 27 July 2018. It is a share purchase agreement between TW Private LLP and London Power & Technology (2018) Limited. On page 3, we see that London Power & Technology (2018) Limited is the second party. The company number is 11475996. On this page, we also see the term "company" defined to mean LPE Enterprises Limited. The term "Sale Shares" is defined to mean 1,000 ordinary shares of £1 each in the company. On page 4, clause 2 is the sale and purchase clause. Clause 3, the purchase price. The purchase price is £1 which is payable in cash on completion. On page 9, we see it is signed by Mr Hume-Kendall for both parties. One odd thing about this document is that it is dated, as my Lord saw on the first page, 27 July. It purportedly predates all the documents that we have just looked at from August 2018, October 2018, February 2019, which continue to say that TW Private owns LPE. We saw the technology structure chart current as at February 2019, which shows, continues to show, that Mr Hume-Kendall, Mr Barker and London Group are the members of TW Private and that TW Private owns 100 per cent of LPE Enterprises.

So, there must be some doubt as to whether this agreement was genuine or intended to have any legal effect. It is rather odd to think that it would have been executed and then ignored completely. But, in any event, it doesn't, ultimately, make any difference to the analysis because the company London Power & Technology (2018) Limited, which is the purchaser under this agreement, with company number 11475996, is the company which changed its name to London Power & Technology Limited on 20 August 2018, and it's owned beneficially by London Group LLP. We see that, I think, in <MDR00197584>. This is a declaration of trust dated 30 November 2018, by which time, as I say, London Power & Technology (2018) Limited had become London Power & Technology Limited.

It is a declaration of trust made by Simon Patrick Hume-Kendall, who was, it says in clause 1.1, the registered owner of the single share in London Power & Technology Limited.

In 1.2, he declared that he had at all times and continues to hold the shares as nominee and on trust for London Group LLP, and had no beneficial interest in the shares. So, he was the registered shareholder, but he declared he'd always held the shares on trust for London Group. So, ultimately, this seems to be a bit of a red herring. I don't think the point about TW Private selling LPE to LPT really goes anywhere. If it did or if it did not, our point about Mr Hume-Kendall and Mr Barker selling the shares to themselves is a good one.

The idea that there was a sale for an acorn to LPT doesn't undermine the basic point that we are making. The price under the transaction, as we have seen, was £20 million. If TW Private sold LPE to LPT, which was owned by London Group LLP, then they were selling to themselves again. It doesn't seem to make any difference to the analysis.

The assets that were sold under the LPE SPA for £20 million were, as my Lord saw, 90 per cent of the shares in ITI and 80 per cent of the shares in LAI. ITI, in turn, owned 50 per cent of Asset Mapping Limited and 20 per cent of Reserec Limited. It's our position that those shares were not worth £20 million, or anything even vaguely approaching that figure. The price of £20 million was not justified or justifiable. Now, Mr Hume-Kendall relies on a board minute, which I should show your Lordship. It is at <D2D10-00047036>. It is a board minute dated 14 June 2018. It says: "Re: London Power Corporation Plc 14th June 2018 board meeting minutes."

The attendees are given as Mr Peattie,

Mr Hume-Kendall, Mr Barker, Mr Hendry, Mr Starkie, Ms Marshall and Mr Elliott. In attendance, also, is Robin Hudson and Mr Thomson.

The passage that Mr Hume-Kendall relies on in particular is at the top of page 5, where it says in bold:

"Action: the board approved to bring Technology [capital T] into the core activities of the new Topco at fair valuation estimated currently @ £20 million." Below that, it says:

"ACTION: The board approves Robin Hudson to consult with LAI regarding the technical aspects of trading." Below that, again in bold:

"ACTION: SHK will look further into security moving forward."

Then below that:

"(i) Asset Mapping.

"1. The company is now making profits.

"2. See supplementary document:

"(ii) London Power & Technology.

"1. SHK/Elten proposed that both LAI and Asset Mapping be brought formally into the LPC group; this was noted to be the original intention for both assets: the present estimated value is £20 million but will be professionally valued as they develop. "2. SHK advised a new subsidiary have been formed and to act as a subsidiary of Topco for LAI, Asset Mapping and Future Energy Projects." I take your Lordship to that because it is something Mr Hume-Kendall relies on. Interestingly, it is not the original version of this board minute. If we go to <EB0092498>, we can see the minutes produced on 16 June, just two days after the board meeting. At the bottom of page 4, it's where we see the beginning of the reference to London Artificial Intelligence and Asset Mapping. Then, at the top of page 5, the bit that we looked at previously, it is different. It says:

"ACTION: The board approved to bring AI into the core activities of LPC."

There is nothing about a fair valuation currently estimated at £20 million. It is the core activities of LPC. Whereas the version that Mr Hume-Kendall relies on talks about the core activities of the new Topco. It goes on to say "the new Topco at fair valuation estimated at currently £20 million".

The original version as well, under the action point referring to looking further into security, doesn't include the text that we just saw in (ii)(1) where there is another reference in the version that Mr Hume-Kendall relies on to £20 million. That's missing in this version. So, the original version, two days after the board meeting, is different and it doesn't contain the words on which Mr Hume-Kendall places reliance. We can see when the change was made from <D2D10-00047035>. Mr Elliott, on 28 June, emails Nicola, saying:

"Hi Nicky.

"Could you email me a copy of the board minutes that you altered yesterday please."

So, she's altered them on the 27th. She sends them to him. The attachment is <D2D10-00047036>. If we go to the top of page 5, we can see what she's added on the 27th is in the first bold action point, the reference to "new Topco" in place of LPC and the fair valuation estimated currently at £20 million, and she has added in (ii)(1) the reference to the original intention in the sentence, "The present estimated value is £20 million but will be professionally valued as they develop". The timing of that, the date 27 June, is quite interesting because we saw <EB0093297>, let's go back to it. This is Mr Sedgwick's email to Mr Hume-Kendall attaching the version that refers to LPE as the purchaser and contains the £18.9 million figure in clause 3.2. Mr Sedgwick says on 3 July, "This was signed by Elten last week". Well, "last week" was 25 to 29 June. So, in the same week that Mr Barker is said to have signed the version of the LPE SPA containing a £20 million price and saying that £18.9 million of that had been paid already, the minutes of the meeting that had taken place on 14 June were altered to imply that the board had approved the price of £20 million. That's not something that had been mentioned in the original version of the board minutes.

If it was done in an attempt to justify the LPE SPA by suggesting that it had been approved by the board of LPC, then it doesn't work. It is a rather ham-fisted attempt. Because, as my Lord saw, under the LPE SPA the shares in LAI and ITI were not brought into the group, they were sold to LPE, which was owned by TW Private, which was owned by Mr Hume-Kendall and Mr Barker. More importantly, even the altered minute doesn't suggest that LOG's board had agreed to borrow from LCF to pay £20 million to Mr Golding, Mr Hume-Kendall, Mr Barker and Mr Thomson. Due to the grossing-up of the borrowing, the payment of £20 million to those individuals is something that adds £27 million to LOG's balance with LCF and, as we will see in due course, no-one from LOG, other than Mr Hume-Kendall and Mr Barker, had any idea that £27 million was being added to LOG's loan balance to fund the payment -- no-one from LOG other than Mr Hume-Kendall and Mr Barker had any idea that £27 million had been added to LOG's loan balance to fund payments of £20 million to Mr Golding, Mr Hume-Kendall, Mr Barker and Mr Thomson. As we will see in due course, they didn't know about these drawdowns, they didn't know that £20 million had been paid out. We say the payment of the £20 million funded by LOG's drawings was unjustifiable.

After the short adjournment, I will explain to your Lordship why we say the quantum, the £20 million figure, was also unjustifiable.

MR JUSTICE MILES: We will come back at 2 o'clock. Thank you.

(12.50 pm)

(The short adjournment)

(2.00 pm)

MR ROBINS: My Lord saw before the short adjournment that the shares sold under the LPE SPA for £20 million were 90 per cent of the shares in ITI and 80 per cent of the shares in LAI. And ITI, in turn, owned 50 per cent of a company called Asset Mapping Limited and a minority stake, ultimately intended, I think, to be 20 per cent, in a company called Reserec Limited.

At the time of the LPE SPA, the shares in Asset Mapping Limited were worthless. We can pick that up with Asset Mapping's unaudited accounts for the year ending 30 June 2015. They are at --

MR JUSTICE MILES: Mr Robins, can I just ask you a question, before you go on?

MR ROBINS: Yes.

MR JUSTICE MILES: I haven't quite picked this up. Is there a dispute between the parties as to whether the various payments you showed me earlier on today were the £20 million, or is that common ground? In other words, were those the payments that made up the £20 million, or have I --

MR ROBINS: Well, it is common ground that those payments were made and that they add up to £20 million and that they appear in the spreadsheet --

MR JUSTICE MILES: Is it common -- is it -- okay.

MR ROBINS: -- kept by Mr Barker. I'm afraid I don't, off the top of my head --

MR JUSTICE MILES: I will ask it a different way. Are you able to say whether it is the defendants' case that the £20 million that was paid that you showed me in the spreadsheet, and so on, represents the £20 million consideration under this agreement?

MR ROBINS: I don't remember seeing any denial of that.

MR JUSTICE MILES: It may be it is a positive case, I don't know. I'm just trying to get clear in my head whether it is the same money.

MR ROBINS: I hadn't anticipated a dispute, given that the payments are made, we can see from the bank statements, and they are included in Mr Barker's spreadsheets, and they tie in with the execution of the LPE SPA on the 3rd, when it is executed, the final payment that brings it to £20 million is made. So I hadn't anticipated that there would be any dispute in relation to that. But we can --

MR JUSTICE MILES: Sorry, I'm not trying to ask anything particularly complicated, I'm just trying to get it clear in my own mind, as it were, where the battle lines are.

MR ROBINS: I don't think that is one of them. We can check, but I don't think that is one of them.

MR JUSTICE MILES: Thank you.

MR ROBINS: If we start with Asset Mapping, <MDR00006373> is Asset Mapping's unaudited accounts for the year ending 30 June 2015.

At page 6, my Lord will see a loss of £45,215 for the financial year.

At page 7, net assets of £12,693, as at 30 June 2015.

In the micro-entity accounts, at <MDR00006461>, covering the same period, there's a slightly different figure for net assets on page 2. It is, I think, £87 out, £12,605. But it's in the same ballpark. For the following year, the year ending 30 June 2016, we need to go to <MDR00006374>. On page 6, we see a loss of £98,880 for the financial year. On the following page, my Lord can see the effect on

the balance sheet. There is now a deficiency of £86,187. We see the same figure in the micro-entity accounts at <MDR00006421> at page 2. This is up to 30 June 2016. In November 2016, there is discussion of London Group Plc buying 38 per cent of Asset Mapping, and we can see that at <MDR00006716>. Asset Mapping's principal director is an individual known as Bill or Ben Clee and, on 9 November 2016, London Group Plc write to Bill regarding a potential acquisition of 38 per cent of the entire issued share capital of Asset Mapping Limited, which is defined as "(Target)". The various shareholders are set out on the first page. As well as Ben/Bill Clee, there are various minority shareholders. Over on the second page, we can see "Price", 2.1:

"Subject to the due diligence, the buyer will pay an aggregate price of £1 million for the shares." So, at this point, it is £1 million for 38 per cent. The idea develops, and it becomes a proposed convertible loan, a loan of that amount convertible into 38 per cent of the shares. We can see that at <MDR00006555>. This is now 8 December 2016. Heads of terms. In the top right corner, it says "Intelligent Technology Investment", and it's relating to, in paragraph 1, a proposed loan of £1 million to the company which may, at the option of the lender, be converted into 38 per cent of the share capital. There are various details set out on the second page. So, this is the proposal: a loan of £1 million, convertible into 38 per cent of the shares. But a spanner is thrown into the works by Asset Mapping's accountants, a firm called Stuckeys, who provide a valuation of Asset Mapping at <MDR00006557>. This is dated 3 February 2017 from Asset Mapping's accountants to Asset Mapping Limited. It says:

"Valuation. Company shares as at today's date. "I have been requested by the company secretary to value the shares of the company.

"Background.

"The company has been trading for four years and has achieved a certain acceptance in the marketplace for the work done on the location of assets within an organisation. It has attracted EIS investment funds which have all been spent and is hoping to attract more in the near future.

"The last funding round saw the company raise £60,000 for 10 per cent of the share capital. That was in November 2014.

"I am informed that the next funding round would seek to raise £1 million for 38 per cent of the share capital [the proposed convertible loan]. This would value the company at £2.7 million. This is too far in the future to affect the valuation except to confirm that the company has a future.

"Trading.

"The company has negotiated to sell its services and has been receiving funding from customers to continue its development of the software. The company is still trading with its customers.

"Valuation.

"I would value the company as a whole at £450,000 based on the hope of future sales and the hard work put into the source code to make a viable project. There are currently no returns to investors as losses have been incurred creating the product.

"Split between shares."

He explains the capital structure and he says: "It follows that the valuation as a whole should be divided equally between the A ordinary and B ordinary shares ..."

He says a valuation is produced for the directors' internal use only. So he's saying it is not worth the 2.7 implied by £1 million for 38 per cent, it's worth £450,000.

A month later, at <MDR00006547>, we see a revised offer from Intelligent Technology Investments. It's to be signed by Mark Ingham as a director of ITI, and he says:

"Dear Bill.

"Many thanks for your time earlier today. I would like to formally confirm my offer to purchase 100 per cent of the shares in Asset Mapping Limited (all classes). For £450,000 less loans previously made to Asset Mapping by ITI these to become settled by deduction from the purchase price.

"I understand that you were disappointed with the offer price. However, the valuation by Stuckeys' business advisors commissioned by your directors valued the company shares at £450,000 ... which considering the indebtedness of the company seems generous. "Also, I have taken into account that while the technology holds potential, it is just that, a promise! None of the anticipated clients we discussed months ago has yet materialised. This offer will at least ensure that there is some return to existing shareholders and a future for your employees.

"As we agreed, I hope you will review this offer with relevant stakeholders and respond with the company's decision ASAP. I have attached a heads of terms ..."

Mr Hume-Kendall is involved at this stage. He saw this draft on the previous day. <D2D10-00025335>. Mark, at the bottom of the page, sends an email to Mr Sedgwick, copied to Mr Golding, Mr Hume-Kendall and Mr Barker, saying:

"Please find attached an offer of sale and a heads of terms for the sale purchase agreement ..." The subject is "Asset Mapping".

Mr Ingham asks for Mr Sedgwick to do some work on the heads of terms document.

The revised heads of terms are accepted by Mr Clee. Loans are advanced by ITI to Asset Mapping and the position, at the time of completion, is set out in an email <EB0040095>. This is now 17 March 2017. Mr Ingham emails Mr Barker to say:

"Just a quick heads up the next loan payment (£75K) is due to Asset Mapping ...

"Status of purchase is good we have signed heads of terms and we must draft a SPA for them to review and sign. (Asset Mapping are using a drag-along clause to ensure they capture all the minority shareholders). "The heads of terms allows for the deduction of all previous loans from the purchase price so we pay them a net price for the shares, eg £450,000 purchase price less facility 1 & 2 (£198K) less the new facility (£75K) = net purchase price £177K ... I would be grateful if £75K could be transferred to ITI Limited for onward transfer."

So, that's the position. The net price is going to be £177,000, and the transaction is still progressing in May. At <D8-0014918>, Mr Ingham emails Mr Sedgwick, Mr Golding, Mr Barker and Mr Hume-Kendall with the subject "Asset Mapping meeting tomorrow" and he says: "Gentlemen.

"Just a quick reminder about the Asset Mapping meeting tomorrow at 1500 hours. Robert please confirm that the share purchase agreement is ready for signing as we discussed the full amount (£177,000) will need to be paid across to the sellers solicitor to your order (until minority shareholder drag is completed). "Spencer -- as we agreed Bill will arrive at 1300 for lunch with you."

A day later, <EB0048489>, we can see that, about a third of the way down the page, Mr Sedgwick asks Nicola, copied to Mr Golding and Mr Ingham, to send £177,000 to the client account of Cooper Burnett at NatWest. Those are the solicitors for Bill Clee. And she replies to say:

"This has been paid."

So that's paid over.

Then <D2D10-00028352>. Mr Sedgwick updates Bill Clee's lawyer at Cooper Burnett, she's called Victoria Sampson. He says:

"I attach the SPA with your changes accepted. There are a couple of blank that need completing eg Bill Clee's address and the division of the consideration among seller.

"We are arranging to send you the £177,000 which is the net consideration."

The share purchase agreement to which he refers is signed. That's at <MDR00006542>, dated 23 June 2017. My Lord can see that it is an agreement between the shareholders of Asset Mapping Limited and ITI, Mr Clee is also a party. On page 3, the "Sale Shares", capital S, capital S, are the shares in Asset Mapping, that's 100 per cent of the share capital, and on page 4, clause 3.1, the purchase price is £450,000 less the amount of the loans.

On page 3, the term "Loans" is defined to mean the loans made by the buyer to the company prior to the completion date in the sum of £273,000, which is how you get to the net price of £177,000.

Schedule 1, which is going to be towards the end, I'm afraid I don't have the page reference [page 12], sets out the consideration payable to each shareholder. We may have gone past it. The £450,000 has to be divided between all the shareholders. The minority shareholders get a fraction of that £450,000 referable to their percentage ownership of Asset Mapping. The drag-and-tag, drag-along, whatever you call it, procedure is implemented to bind the minority shareholders. As my Lord will know, it is a familiar procedure found in many companies' articles where a majority shareholder can bind minority shareholders to a sale. Even if they don't want to sell their shares, they can be compelled under the articles. That's what happened here. It is a sale of 100 per cent for £450,000 divvied up between the various shareholders. What is slightly odd about it is that, in this case, after the sale, Mr Clee continues to be a beneficial owner of Asset Mapping. In fact, the declaration of trust was executed before the SPA. It is at <MDR00006656>. ITI declares that it, in 1.3(a), holds 62 per cent of the shares as nominee and on trust for Benjamin Clee.

So, in commercial terms, ITI has paid the gross amount of £450,000, or the net amount after deduction of the loans of £177,000, for 38 per cent. If it is £450,000 for 38 per cent, then it should really have been £725,000 for 100 per cent, which means that the minority shareholders who were compelled to sell their shares under the drag-along procedure might well have cause for complaint. They got a fraction of 450 when they should have got the same percentage of a larger number, £725,000. But that's outside the scope of these proceedings. The relevant point, for our purposes, is that ITI acquired 38 per cent for a total of £450,000, part of which was loaned, and then the net balance was paid over to Mr Clee and the other shareholders divided between them.

As to the ownership of ITI, we see the position from an email <EB0053713>. Mr Sedgwick emails Mr Golding, Mr Barker and Mr Hume-Kendall and indeed Mr Ingham, on 27 July 2017, with the subject "Declaration of trust re Intelligent Technology Investments Limited". He says: "Mark has executed the declaration and I attach a copy. The original has been placed in my file of documents relating to the acquisition of Asset Mapping." The attachment is <EB0053714>. My Lord can see it is a declaration of

trust made by Mark Ingham, saying that he holds the shares in ITI and, in 1.2(a), that he holds them on trust for the persons whose names are set out in the schedule and in the percentages set out against each name.

If we look at the bottom of page 2, we can see the beginning of the schedule. Mr Golding owns 40 per cent of ITI, Mr Hume-Kendall owns 40 per cent of ITI and then, on the next page, Mr Barker owns 10 per cent of ITI and Mr Ingham owns 10 per cent of ITI. It is signed by Mr Ingham and witnessed by Mr Sedgwick. So, at this point, it's Mr Golding, Mr Hume-Kendall, Mr Barker and Mr Ingham who own ITI in those percentages, and then ITI owns 100 per cent of Asset Mapping, although it holds 62 per cent of that on trust for Mr Clee.

As regards Asset Mapping's financial position, which we can pick up again now, <MDR00006444> is Asset Mapping's profit and loss account from July 2016 through June 2017. My Lord can see from the final line it has made a loss. It says "Profit for the year" but it is a negative figure. It is a loss of £486,040 for the year.

The balance sheet position has got worse. That's <MDR00006445>. This is as at 30 June 2017. At the bottom, we can see in capitals "NET ASSETS". It is a deficiency of £572,226.

Consistent with these internal Asset Mapping ledgers are the draft unaudited accounts, although, as before, there is a slight variance with the figures. <MDR00006408>. Page 6 has a loss of £490,820. So, it's about £4,000 worse than the loss in the internal document that we just saw. The deficiency, on page 7, is about -- the position is about £220 better, if I can put it that way. It is a deficiency of £577,006, but it is broadly consistent.

MR JUSTICE MILES: I thought it was 572.

MR ROBINS: Oh, my Lord is quite right. I misremembered it.

MR JUSTICE MILES: It is the same difference, isn't it?

MR ROBINS: It is the same difference. It has got worse by the same amount. That's right.

ITI is continuing to prop up Asset Mapping at this point with monies ultimately deriving from LCF. The loan is made by LCF to LOG and then LOG pays it to ITI, ITI pays it to Asset Mapping.

There is a table at <MDR00006469>. This is a table showing the loans made by ITI to Asset Mapping. It covers the period 12 December 2016 through to 29 June 2018.

My Lord can see the loans are substantial. These enable Asset Mapping to continue trading because, as my Lord has seen, it is loss making. These loans enable it to pay its way. It can remain cash flow solvent. But, of course, they worsen the balance sheet position by adding to the liabilities, so they make it even more balance-sheet insolvent.

As a result of ITI's continued support of Asset Mapping, there is a renegotiation with Mr Clee to increase the percentage of ITI's beneficial ownership of Asset Mapping, and we see that at <EB0089480>, where, at the bottom of the page, Mr Sedgwick emails Mr Ingham, copied to Mr Hume-Kendall and Mr Barker, with the subject "Asset Mapping Limited", and in the third paragraph he says:

"The first issue is that although ITI owns all the shares it has executed a declaration of trust whereby it holds 62 per cent on trust for Bill Clee. I understand that it has been agreed that in consideration of the additional funding that ITI is going to organise for Asset Mapping Bill will ..."

Something has gone wrong with the language. I think, "for the additional funding that ITI is going to organise for Asset Mapping, Bill will release his 12 per cent shares to ITI giving both parties 50 per cent each (although there is some discussion about Bill wanting 51 per cent)."

At the top of the first page, Mr Ingham replies and he says:

"Thanks for your time earlier -- very important to make it clear to the copy holders as I explained Bill is honouring the agreement to 50 per cent share ownership but has asked if there is a way he could be shown to hold 51 per cent (with no effective control) as this in his opinion would give him greater credibility with the companies that he deals with ie they would feel they are dealing with the controlling party at all times." Then <EB0095035>. Mr Sedgwick sends an email to someone called Saxton Monteith, copied to Mr Barker, and he says in the first paragraph:

"With regard to the actual share structure, the legal title in all shares is held by Intelligent Technology Investments Limited. However, ITI has executed a deed of trust and a deed of variation of that trust so that it now holds 50 per cent of the shares in the company on trust for Bill."

So, that's how we get to the position where ITI owns 50 per cent of Asset Mapping.

There's a further Asset Mapping balance sheet to mention at <MDR00005706>. This is, my Lord will see, a later date. This is 31 January 2019.

The figure on page 2, just under halfway through that list, is "Total net assets (liabilities)". My Lord will see the tiny minus sign before the pounds sign. It is a figure of minus £2,144,369, and, as I said, that's because the loans keep being advanced, the balance sheet position worsens.

Mazars --

MR JUSTICE MILES: It also says there is a loss for the year there of £1.2 million.

MR ROBINS: Yes, there are continued --

MR JUSTICE MILES: At the bottom.

MR ROBINS: That's right. It doesn't make money, it continues to make losses, and loans are advanced to prop it up and its position keeps getting worse. Consistent with that is the Mazars valuation of AML that we see at <MDR00213396>. My Lord will see that it's headed "Asset Mapping Limited. Company valuation as at 28 February 2019". On page 2, we see the genesis of it. It is addressed to Asset Mapping Limited. "Valuation of A ordinary shares in Asset Mapping Limited":

"We have been asked to provide a valuation of the A ordinary shares in Asset Mapping Limited for tax purposes in relation to the proposed transfer of the A shares between shareholders and employees of Asset Mapping."

On page 7, they provide information about financial performance, profit and loss. They set out the turnover. My Lord can see the financial year 2017, the turnover has been £437,373; for LTM 18 -- what does "LTM" stand for? I knew.

MR JUSTICE MILES: "Last 12 months".

MR ROBINS: "Last 12 months", that's it. For 2018, the turnover is £320,844. And then the forecast for financial year 2019 is £361,478.

The operating profit figure is very small for 2017, £98,000-odd. But losses appear subsequently. The EBITDA figures are further down the page. On the left, they identify what information they have relied on:

"Unaudited financial statements for the year ended 30 June 2017."

Then they have calculated results for the 12 months ending 31 December 2018 in the way that they describe. They make some observations at the bottom, they say: "The company is expected to continue its loss-making performance in financial year 20 ..."

It might break even by 2021.

On page 8, we see the financial position, balance sheet. They say:

"Fixed assets remained stable ... fixed assets mainly consist of capitalised development expenditure for software and intellectual property." It's the accounting rule whereby, if you spend money, you can capitalise a percentage of that and treat it as an asset on your balance sheet. It is not actually something you can go into the market and sell. It is an accounting convention. They say: "Working capital has deteriorated ... mainly due to a decrease in cash."

They refer to the company's investors providing additional loan financing. They refer to the net liability position and the predicted net loss in 2019, which they say will result in a net liability position in the financial year 2019.

Then, on page 10, they describe their valuation approach. They say:

"In order to arrive at a value for Asset Mapping, we have applied a market approach to our valuation which involves looking at comparable companies with similar operations to Asset Mapping and using a range of metrics to triangulate our valuation conclusion. "In performing the valuation, we have relied on the information provided to us by management and on publicly available information from databases that we have access to."

On page 14, they explain the comparables point. On the left-hand side, in the white text on the blue background, they say:

"Range of multiples: 4.2x to 6.1x."

So it's the familiar approach of applying multiples, and they say in the heading "Comparable companies. "We reviewed a list of competitors provided by Asset Mapping management and searched on the Capital IQ database for listed companies with comparable business operations ... We identified seven companies which are sufficiently comparable to Asset Mapping. However, we identified that the shares of these seven comparable companies are not frequently traded. Therefore, we have placed less weight on their multiples." They say they have considered average industry multiples as well as the multiples of two comparable companies. They note, in the penultimate bullet point, that the range of multiples is 4.2 to 6.1, which is the figure that we see on the left. In their table, they set it out. For application software, 6.1; for internet services and infrastructure, 4.2; for real estate, 4.5. And the comparable companies are urbanise.com at 3.4 and TrackX Holdings Inc at 4.6.

Then on page 15, Mazars make various adjustments to the multiple. They say:

"We consider that a number of adjustments to the multiples for comparable companies and industry multiples are required ..."

They make an adjustment for lack of liquidity. They make various other adjustments that they set out. At the foot of the page, they say:

"Based on the required adjustments, our selected EV/Revenue multiple range is 2.1x to 3.0x reflecting an approximate 50 per cent discount in comparison with the industry average multiples."

On page 16, they apply both of those multiples in their valuation. At the bottom range of the multiple, 2.1, they have got an enterprise value, the value of the business, of £673,000-odd and, at the top of the range, three times the value of the business is just over £962,000.

But then, of course, you've got to take off the debt, which is £2.9 million in both of those scenarios, that's the debt position. That is, of course, greater than the value of the business, so the equity value is nil.

They say:

"We were provided with the actual balance sheet as at 31 December 2018 and profit and loss accounts ending 31 December 2018. We have assumed that revenue and debt have not changed significantly between 31 December 2018 and 28 February 2019."

Their conclusion is:

"The company is expected to have zero equity value at least up to the end of FY20 for the following three key reasons."

In fact, there are four of them:

"The company is expected to be loss making in FY19 and FY20 and not break even until FY21; "The company requires significant further shareholder investment ...

"There is a potential for further difficulties in the growth of sales as the new services are introduced by Asset Mapping which have a limited track record; and "The company has negative net assets.

"As such, we consider the value of the A shares in Asset Mapping to be no more than their nominal value being £0.0001 per share."

So, that's what's prepared by Mazars for Asset Mapping in February 2019.

Another valuation to look at is the valuation prepared for Mr Paterson of Kirker & Co who was the proposed administrator of Asset Mapping. That's at <MDR00005799>, prepared by Lambert Smith Hampton for S Paterson of Kirker & Co. That's a firm of insolvency practitioners, or was.

On page 3, we see there "Summary of values" in the bottom half of the page. They give market value as a whole in place and market value for removal with a four-week marketing period. For the office furniture and equipment, it is just a few thousand pounds. For stock, similar. And for intellectual property rights, they suggest an asking price of £500,000, but give a market value of £350,000.

On page 6, they provide their understanding of the background based on what they have been told. In 3.7, they say:

"The company was originally founded in 2012 and for the first three and a half years run on a part-time basis as the concept was developed in how to use technology to manage and improve the management of offices and other commercial buildings. However, there was, we are advised, little financial management control and the founder was then removed from the business." Then, in the next paragraph, they say:

"Following this, new funders in the form of the current investors came on board and a new team were taken on to work full time to continue to develop the new facilities management software system where they had identified an opportunity to provide a unique service to the market and to become the leader in smart building technology, where they would gather information from building systems and other sensors to help customers better understand a building's operation issues to allow for a better use of the space and working environment." He explains further about the background. On page 7, we see the turnover figures that are set out in the middle of the page. The management accounts for the year ending 31 March 2019 show a turnover of a little over £257,000. For the period 1 July to 31 March 2018, it is a little over £231,000. This appears under the heading "Trading". They say that these figures come from the unaudited accounts and the management accounts.

Then, on page 8, in paragraph 3.17, they say: "We note that during the marketing process of the business that JLL (the largest firm of surveyors in the world) were contacted to see if they would be interested in an acquisition but they showed no real interest in the product having evolved their own system, and so there must be a strong chance that other major property companies and FM managers will have developed in-house systems which are not available on the open market."

In the next paragraph, 3.18, they say:

"There are a number of factors we believe would impact upon the value of the Asset Mapping IPR package." They set those out: small team; technology has not been patented or protected; there needs to be development of a larger operation; there's a lack of any coherent income stream and a lack of formal commitments to the business going forward. So they say: "Placing a value on the IPR is ... a subjective exercise at this stage."

On page 9, at paragraph 3.22, they say: "The business has no confirmed income stream going forward and therefore further capital to fund the business development will be required from the first day. It is therefore unlikely that a party would be prepared to pay the full sum suggested above initially for the benefit of the business and IPR assets and we would recommend that any sale must include a trade-out provision over an agreed period of time to allow for a consideration to be paid for the uplift in value ..." So, as I say, they have suggested a marketing price of £500,000, but they think it would realise about £350,000.

That was for Mr Paterson --

MR JUSTICE MILES: That's the value of the assets, isn't it?

MR ROBINS: Yes, not the shares.

MR JUSTICE MILES: I will just make a note.

MR ROBINS: This is what could be realised by an insolvency practitioner for the benefit of the creditors.

MR JUSTICE MILES: Yes.

MR ROBINS: That was for Mr Paterson of Kirker & Co. Mr Kirker was appointed as the administrator by the directors, we see that at <MDR00005800>. We can pick up the date from that. It is, I think, 18 April 2019, in the box on page 2. So it goes into administration and the subsequent history is set out in the report by the insolvency practitioners. At <MDR00226936> there is a report by the liquidators. It is page 5 which tells you about the sale in administration. In fact, there is the front page. Page 8 is the page we want. Paragraph 3.5. So they are explaining what happened prior to the liquidation, and

they say: "... the assets of the company were sold in the preceding administration by the administrator [Mr Kirker] to Metrikus Limited on 7 May 2019 ... Under the terms of the SPA, £150,000 was paid on completion together with an earn-out of 12.5 per cent on sales of software licences to third parties over three years capped at £4 million. The earn-out was paid quarterly. During the reporting period, a further £16,295.93 has been received and £25,649.61 in total. No further payments are due under the terms of the SPA." So, the total amount realised was, therefore, £175,649.61.

There is more detail about the sale process in the administrator's report, going back to the period prior to the liquidation, which is <MDR00226305>. This is the administrator's report. My Lord will see the administrator is Mr Edwin Kirker. On page 3, we can see the front page of his report. On page 6, he explains, at 2.1, that Asset Mapping was incorporated in 2012 and was run part time for the first three years: "It then won an innovate project and started to develop the first platform. This development continued with a small team, but in late 2015/early 2016, the company picked up a contract with its first big customer. This helped the team grow and enabled development to increase. In early 2016, the company also won another innovate project, CityVerve, which helped further the development of the business. This project was a two-year project in Manchester that was predicted to generate just over £400,000 of revenue." Then 2.2:

"In late 2016, the first customer tried an aggressive takeover of the business after being informed by the then CEO that they were the company's only real paying customer. At this point in time the directors were seeking other funding and were introduced to London Power Corporation Limited through a family connection of the then CEO. LPC agreed to fund the company and assist in [growing] the development to increase sales and marketing."

In 2.3, it says:

"Revenues continued to grow between 2015 and 2017, however costs always outweighed revenues. Small POCs started to be won and some significant customers started to come onboard, however, developing these customers proved harder than expected without sufficient working capital being made available. The [financial] year [the 2018 financial year] closed out at £231,000 in revenues. "Extracts from the statutory accounts show the following results."

The headings are not visible, but the figures tally with what we have seen before. The first column of numbers is management accounts for the year ending 31 March 2018. The period to the right of that is the period of 1 July 2018 to 31 March 2018, and the column on the right is the year ended 31 July 2017, when the turnover figure was a little over £427,000. In 2.5, they say:

"In June 2018, the smart city project finished with revenue for the financial year being £257,000. However, sales did not grow as fast as expected and senior management became disunited. The CEO was removed from the business in July 2018 and a new CEO was brought in ..."

I think that's Mr Saxton Monteith. And the subsequent circumstances are explained, with LCF collapsing. The loans from ITI dried up because the taps had been turned off.

On page 6, paragraph 2.7, it explains the circumstances of the company going into administration: it was apparent there would be no additional funding. The directors sought an investor for the business -- that's the final line of 2.7. In 2.8:

"Eight parties responded to the enquiries but only two proceeded towards an offer. Stanley Security, a long-term partner of the company, stressed that it would seek an asset purchase ... for £200,000 which took into consideration their estimate of £500,000 of operating costs with little revenue

stream." In 2.9, the other offer was from two ex-financial services professionals working in property development and other entrepreneurial ventures. They offered £100,000 plus an earn-out of £100,000 per £1 million of new turnover for a period of three years. Again, it was to be an asset sale with no exposure to the company's creditors. Again, that's what was being offered for the asset.

Then in 2.10:

"The directors were aware that working capital would not last beyond the end of April ..."

They accepted the offer from the two ex-financial services professionals, which they thought was the best offer, and then at 2.11:

"Before this could be achieved, the company became aware of a threat from the administrators of ... London Oil & Gas ... [demanding] repayment of the loan ... they were concerned that the threat of such action might prejudice a sale of the business."

So 2.12:

"Consequently, the directors sought advice which culminated in the board agreeing to appoint an out-of-court administrator ..."

Mr Kirker was appointed. That appointment, as is set out in that paragraph, was to enable the administrator to conclude a sale of the business. That's the end of the second line, beginning of the third line.

So, the administration was very much to continue a sales process that had begun before the start of the administration. That's picked up on page 8 in paragraph 3.3, where it's reported in the second bullet point:

"The company had been actively seeking a purchaser for its IPR for a number of weeks. Two offers had been received, but there was a threat of legal action ... It was considered appropriate for an administration to be sought to obtain a moratorium ... to allow the administrator time to continue the marketing of the business and to complete a sale in the short term. Such a sale has been secured which will achieve a dividend for the nonpreferential creditors." In 4.2, Mr Kirker explains, in the third line, that he appointed Lambert Smith Hampton. We have seen their valuation. He says:

"Four NDAs were returned from prospective interested parties and one held an initial meeting on site." In 4.3, he says:

"Whilst other interest was being sought by the agents, the administrator continued negotiations with the two interested parties. The prospective purchaser that the board had recommended accepting incorporated an SPV called Omniscium Limited to acquire the business. The main purpose of the discussions was to confirm the basis of the earn-out. Based upon these negotiations, the projected turnover for the new business would have given an earn-out of £3 million and this was the upper limit offered by Omniscium."

Then on the next page [page 9], 4.4, it's said: "As a result of the marketing strategy by Lambert Smith Hampton, a late offer was received the day before the deadline of 30 April 2019, from Unified. It would appear that the new bid had been organised by the former CEO of Asset Mapping Limited. The offer put forward was slightly in excess of Omniscium's offer. Consequently, the agents were instructed to seek best offers from the two parties by 12 noon on 1 May 2019 ..." At 4.5:

"Omniscium increased its offer but Unified declined to increase its offer. The offer from Omniscium, which was accepted, was £150,000 on completion plus an earn-out ... capped at £4 million."

My Lord, so, in the event, it produced £25,000-odd. They say it didn't constitute a prepack sale. At 4.7: "The sale was concluded on 7 May 2019 to the renamed purchaser, Metrikus Limited."

So that's what Omniscium became called. Then, at 4.8, it mentions that Michael Grant was a director of the company from 1 November 2017 until 5 March 2019:

"He is a director and minority shareholder in Metrikus Limited."

In 5.2, they say the company's assets comprise office equipment and computers with a fairly notable value:

"The company's intangible assets including source code, IPR and trademarks have a net book value of [£922,000] ..."

That's the capitalised expenditure figure: "... and was valued by Lambert Smith Hampton at [£140,000]."

I'm not sure quite where that has come from. It is not consistent with the document we looked at earlier. The statement of affairs is on page 16. The total amount of liabilities is about three-quarters of the way down the page, just below the box, it is a sum in excess of £3.3 million. The assets, as my Lord has seen, realised about £175,000, but the liabilities are huge, relatively speaking, to the value of the assets. Mazars were clearly right. The equity was worthless. We need to contrast now that real-world position with the valuation on which Mr Hume-Kendall relies. That is a valuation based on a business plan, so we just need to see something about the genesis of the business plan. It is an email at <D2D10-00066357>. Michael Grant, who has just been mentioned, is emailing the business plan to Saxton Monteith, saying: "As requested, attached is the business plan that outlines the sales strategy, the marketing and operations to support both of those. This document has been presented to Spencer, Elten and Simon. The numbers/forecast within it are numbers that have been increased at the request of those guys also. We had a lower forecast document we did much earlier in the year, the content is the same, only the numbers were more conservative."

So the business plan is one that has been reviewed and commented on by Spencer, Elten and Simon, who have requested that the numbers in it be increased. That business plan was then given to a valuer, who was asked to value the business on the basis of the forecasts in the business plan. Essentially, as we will see, the valuer was asked to take the predicted turnover from the business plan and multiply it by a number that was somewhere between 16 and 70. He was told to use multipliers from a range of 16 to 70.

The valuation itself is at <MDR00006659>. It is prepared by a valuer whose name I think appears on the next page, Clive Adkins of Kilby Fox. It is dated 30 May 2018. We don't need to go to it, but we have got Mr Adkins' -- or I should say Kilby Fox's invoice. He charged £5,000 for this.

On page 5, he explains in paragraph 2.1: "We have been instructed to provide a valuation of Asset Mapping Limited (AML) by its shareholders, Intelligent Technology Investments Limited." 2.2. We are further instructed that:

"the valuation should be based on the business plan that the Asset Mapping management team have built and we would like to see the valuation reflect obviously current value and milestone valuations on a 6-monthly basis'."

So, he's been given the business plan.

As regard the comparables, we see he has also been instructed which comparables to use. That's on page 11, paragraph 4.17 at the bottom. He says:

"The AML business plan has provided a list of companies comparable to AML, within a similar sector and at a similar stage of development, for purposes of establishing a multiple to apply to revenue." We see a bit more about the business plan at the next page, page 12. Paragraph 5.1:

"As instructed, my valuation is based upon the trading projections appearing in AML's business plan. I have not audited the figures nor am I instructed to express an opinion with regard to their potential accuracy or achievability."

At 5.2:

"For ease of reference, projected revenues per the business plan are as follows ..."

And, for the six months to 30 September 2018, it's a figure of £2.217 million for that six-month period; for the six months ended 31 March 2019, it's £2.347 million; for the six months to 30 September 2019, it's £7.383 million; for the six months to 31 March 2020, it's £7.15 million; for the six months to 30 September 2020, it's £17.466 million; for the six months to 31 March 2021, £16.56 million; for the six months to 30 September 2021, it's £34 million; for the six months to 31 March 2022, £32.11 million; for the six months to 30 September 2022, £55.51 million; and for the six months to 31 March 2023, £52.105 million. So, those are the turnover figures that he's been told to multiply.

On page 13, he says in 5.3:

"To achieve a valuation based on the 'multiple of gross revenue' method, I have compared AML to the range of similar companies (in the IT sector) at the point that they were targeted for investment as per section 7 of the business plan, which [cites] the following." The companies mentioned are Jasper Inc, App Dynamics Inc, Acano Limited, Orbitera Inc, ThingWorx Inc and SmartThings Inc. He says, at 5.4: "The multiples relevant to each example range between (lowest 16.0 to highest 30.8) with the exception of Acano Limited (a multiple of 70.0)." He tells us about Acano before concluding on page 14 in paragraph 5.8:

"I believe that the multipliers in regard to the transactions involving Acano should be disregarded in this case."

So, he chucks that out and he's left with a range of 16 to 30.8.

On page 15, in paragraph 5.12, he says: "Disregarding Acano, the average multiple for the remaining acquisitions would be 22.2."

In 5.13, in section 4.9, he's commented that AML is an SaaS company. He thinks -- he says:

"The business plan indicates that this status draws more direct comparison with Jasper Inc and Orbitera." He is inclined to use a multiple based on these companies, 18.7 and 20:

"I have therefore used a multiple of 20 and applied it in this valuation."

My Lord saw Mazars used a multiple of between 2.1 and 3 to establish an enterprise value, and then deducted the debt. 20 seems off the charts. Then on page 16, at 6.2, he says:

"I have been unable to provide a current valuation as I have no details of revenues for the year ended 31 March 2018."

Well, my Lord has seen they were available. We saw them in the Lambert Smith Hampton valuation. It was £231,000. They were also in the report by the administrator of Asset Mapping, same figure. It seems rather peculiar that that figure wasn't given to Mr Adkins.

He then says, in 6.3:

"I have only considered the list of comparable companies provided in the business plan (section 5.3) in order to establish an appropriate multiplier." So, as I say, he's been given that. He goes on: "I have not been instructed to consider any other companies outside the scope of that list." So his instructions have been somewhat confined. Then 6.4:

"It follows that if a multiple of 20 is to be applied to the projected values in the business plan, then the value of AML would be as follows ..." For the year ended 31 March 2019, it would be £91.28 million; for the year ended 30 September 2019, it would be £194.6 million; for the year ended 31 March 2020, it would be £290.66 million. Over the page, we see that, for the year ended 30 September 2020, it would be £492.32 million; for the year ended 31 March 2021, it would be £680.52 million; for the year ended 30 September 2021, it would be over £1.01 billion; for the year ended 31 March 2022, it would be over £1.32 billion; for the year ended 30 September 2022, it would be over £1.75 billion. And for the year ended 31 March 2023, it would be over £2.15 billion. He says, at 6.5:

"It would not be unreasonable to assume that before the company reaches its ninth year of trading ... that the most appropriate methods of valuation may well not be a multiple of revenue and even if it were that multiple may well have changed."

So, as I've said, my Lord, the instructions were: take the projected revenues from the business plan, multiply them by a figure of between 16 and 70. He chose 20: he got his calculator out. It is a completely absurd exercise. He said on page 16, as we saw: "I have been unable to provide a current valuation as I have no details of the revenues for the year ended 31 March 2018." That was £231,000, confirmed by the financial documents we have seen, like the unaudited accounts.

Even if you were to take the absurd multiplier of 20, which is vastly in excess of the Mazars multiplier of 2.1 to 3, but even if you were to take that multiplier of 20 and apply it to the actual turnover figure, you'd get an enterprise value of £4.62 million. If you were to deduct the debt of £2.6 million, then 100 per cent of the shares would be worth £2 million, but ITI only owns 50 per cent. The value of the shares owned by ITI would be £1 million, even on the basis of the absurd multiplier of 20.

If you were to use the top end of the Mazars range, the multiplier of 3, then the enterprise value would be £693,000, which is significantly lower than the debt. The equity has no value.

On revenue of £231,000, as set out in the accounts, you would need a multiplier of 11.5 or higher for the equity to have any value at all.

My Lord saw from the Mazars report that a multiplier of even that level, 11.5, would be unrealistic. This is why we say the reality is, obviously, that the shares in AML had no value. The fact that ITI owned 50 per cent of them can't justify the payment of £20 million to Mr Golding, Mr Hume-Kendall, Mr Barker and Mr Thomson. So that deals with AML.

The next topic is LAI, but I notice the time. I wonder if that might be a convenient moment for the shorthand writer's break?

MR JUSTICE MILES: Was ITI just a holding company?

MR ROBINS: Yes. It owned 50 per cent of --

MR JUSTICE MILES: Yes.

MR ROBINS: And then --

MR JUSTICE MILES: 20 per cent of --

MR ROBINS: Ultimately, 20 per cent of Reserec. It was paying for it in instalments. As we will see in due course, it owns different percentages at different times as and when it buys additional tranches.

MR JUSTICE MILES: All right. We will come back in five minutes.

(3.11 pm)

(A short break)

(3.18 pm)

MR ROBINS: As my Lord knows, ITI also owned 20 per cent of Reserec, but before dealing with that, we need to address the 80 per cent of London Artificial Intelligence which was also sold to LPE under the LPE SPA.

London Artificial Intelligence Limited is a company that was incorporated on 30 June 2017. As regards the ownership, we can see the position from <EB0054241>. Mr Sedgwick emails Mr Hume-Kendall and Mr Barker, on 1 August 2017, to say:

"As discussed just now I shall transfer the shares ..."

We can see from the subject he's talking about the shares in London Artificial Intelligence: "... to Global Security Trustees Limited who shall hold them on trust for you and Elten and we will transfer the shares to the appropriate shareholders once you have agreed who they should be."

So the shares are held by Global Security Trustees Limited on trust for Mr Hume-Kendall and Mr Barker.

MR JUSTICE MILES: This is the 80 per cent, or --

MR ROBINS: At the moment, this is 100 per cent, at this point, 100 per cent of the shares in LAI.

MR JUSTICE MILES: Right.

MR ROBINS: Then, at <EB0061434>, we see on page 3, at the bottom half of the page, Mr Sedgwick emails Jagadeesh Gorla, on 22 September 2017, to say: "Dear Jaggu.

"Further to our meeting today as agreed I am summarising my understanding of what is agreed in principle and the agreements that I shall prepare. "1. Reserec Limited is a private company owned solely by you and you are the only director. "2. Reserec is providing consulting services to one of the companies within the London Group. The basic service is the development of an AI solution for commodities trading. The concept is to gather published information which has relevance to commodities and to analyse how that historically has affected the relevant commodity markets with

a view to developing a system that can take advantage of this data immediately it is published to increase the profitability of commodity trading.

"3. For this arrangement you, Reserec, will be paid £11,000 per month but this sum can be increased by agreement in the event that it is necessary to engage additional staff. The agreement shall be terminable on three months' notice by either party. All IPR in the work developed by Reserec under this engagement and any spin-offs shall belong to London Group. "4. One of the London Group entities will invest up to £1.5 million in Reserec for a share of 20 per cent. The money will be available for drawdown by Reserec at the rate of £30,000 per month until fully subscribed. "5. The parties will enter into a shareholders' agreement which will give the London Group at least the same protection as if their shareholding was in excess of 25 per cent. The shareholders' agreement will also provide:

"(a) all Jaggu's work on the development of artificial intelligence systems will be conducted through Reserec.

"(b) London Group will be entitled to appoint one director to the board.

"(c) London Group will provide business and support services at cost.

"(d) there will be drag-and-tag rights. "6. The intention is to develop the company in such a way that it will be attractive to large companies in the field and with a view to a sale or flotation within 2-3 years.

"I hope that I have summarised our discussions accurately but all comments welcome. I will endeavour to produce draft documents for consideration during the first week of October."

And Jagadeesh, or Jaggu, replies on the left-hand side:

"It was lovely to meet you at TW [Tunbridge Wells] office on Thursday. Thank you very much for your below summary and it reflects our discussion. "I will wait for the further detailed documentation for the first week of October."

It seems that Mr Sedgwick doesn't deal with it in the first week of October because, at <D2D10-00035617>, we can see that, on 10 October, Mr Hume-Kendall, about two-thirds of the way down the page, says to Mr Sedgwick:

"Jaggu.com contract is now urgent."

Mr Sedgwick replies at the top of the same page: "There are two agreements to produce.

"1. An agreement between London Group and Reserec for the provision of consultancy services for the development of an AI system for commodities trading. "2. An agreement for London Group to invest in Reserec.

"Are both equally as urgent?"

"Which of our companies is going to be the party for each agreement?"

The next day, Mr Sedgwick emails Mr Gorla, at <EB0061434>. On page 2, in the middle of the page, he says:

"Dear Jaggu.

"Further to the exchanges of emails below I apologise for the delay in getting back to you with draft documents but unfortunately my holiday was extended for most of last week by adverse weather which prevented our return flight home. However, I am now working on the documents and would hope to have something for you in the course of the next 24 hours. "The company which will be entering into the contracts with you will be London Artificial Intelligence Limited."

We can see Mr Gorla's response at the top of the page:

"Thanks a lot, Robert. Hope it was not very bad stuck there. Will look forward to the draft documents ..."

On page 1 of this document, we see the email from Mr Sedgwick to Mr Gorla, later on in the day, saying: "Thank you for your understanding.

"I now attach the draft consultancy agreement for your consideration. Please note that this has not been seen by Simon so is sent subject to any comments from him.

"I will let you have draft investment agreement shortly."

So, he said there's going to be two agreements, the first is the consultancy agreement, and that's at <EB0061444>. My Lord can see it is a consultancy agreement between London Artificial Intelligence Limited, Reserec Limited and Jagadeesh Gorla. On page 3, we see the same parties. There are various definitions. Commencement date is to be 1 September 2017.

I think there are further definitions on the next page as well, including intellectual property rights. The "Individual", with a capital I, is Jagadeesh Gorla. At the bottom of page 6, clause 4.1 sets out that the client shall pay the consultant company a fee of £11,000 per month exclusive of VAT. So it is a fee of £11,000 a month for the services.

The services are defined on page 16:

"To gather published information with relevance to commodity trading.

"To analyse how the published information has historically [affected] commodity trading process. "To develop intelligent computer systems that use this information to increase the profitability of commodity trading."

So, that's the contract. Then the monthly payments begin. We can see a Reserec invoice at <MDR00128830>. This is invoice 2, purely by way of example. It is for £11,000 for the services from 10 October 2017 to 15 November 2017. It is £11,000, but VAT goes on top, so it is £13,200. There are regular monthly payments that continue after this invoice.

We then get to a point where Mr Gorla, through Reserec, has been working on this for some months and he describes where he has got to in a presentation in early June 2018. <MDR00000371>. It is headed "London Artificial Intelligence. Artificial Intelligence for Commodity Understanding". It is quite a lengthy description. The current state of play is described on page 5, where he says:

"What are our immediate next steps?

"At present, we are working on three fundamental aspects of developing the platform."

(a) is data and algorithms and (b) is live testing: "The next major project milestone is to bring the system to a stage where it will be able to trade on live markets, as opposed to back testing. This will initially be conducted in a controlled environment with synthetic funds. This will allow us to establish

whether the machine is able to replicate its current +80 per cent accuracy in live predictions. This turns it from an interesting study on the possible applications of AI into a commodifiable product that can be used to trade."

As I said, this presentation is early June, in fact, 4 June 2018. So, as at that point in time, it is still just an interesting study on the possible applications of AI. The next stage is going to be the live testing, which can hopefully test it out to see if it can be turned into a commodifiable project or product that can be used to trade.

For some reason --

MR JUSTICE MILES: Sorry, can you remind me of the date of the SPA?

MR ROBINS: It is signed on 3 July 2018, my Lord, it is backdated to 21 June 2018, but signed on the 3rd. The live testing was delayed. The testing phase, including synthetic funds, seems to have happened at some point over the summer and, by the middle of September, there is an intention to trade using real funds, and that's at <MDR00000868>. On, I think, the second page, there is an email from Henry Hume-Kendall, Mrs and Mrs Hume-Kendall's son, or one of their sons, who says:

"I would like to inform you all that tomorrow will see the initiation of trading using real funds. The investments will total £300,000 and be spread between the UK and USA trading hours."

He gives a report on the left at the end of that that says:

"We have lost on the day."

And he explains that they have incurred a one-day loss of £6,480. So it is not the most promising start. It doesn't really seem to go particularly well. If we move forward to 21 December 2018, at <EB0113641>, we see Mr Hudson emailing Mr Hume-Kendall. It is copied to Mr Barker. And he says:

"Simon ...":

"The subject is "Jaggu/AI". He says:

"Simon.

"Given we still do not have the requested updates can I please apply a bit of human intervention in the interim to generate some profits?

"We were up over 5 per cent yesterday and it all evaporated. The model had already turned negative for its next day figures so it already predicted that the top was in.

"Whilst I appreciate the desire to have a no trader model; in the interim it is my recommendation that I get more proactive to monetise what we already have." So he wants to, as he says, apply a bit of human intervention.

It is our submission that this trading programme couldn't possibly justify the payments of £20 million to Mr Thomson, Mr Hume-Kendall, Mr Barker and Mr Golding between 2 February 2018 and 3 July 2018. At the beginning of that period, LAI had merely paid a few of Jaggu's monthly invoices and, at the end of that period, it was still just an interesting study on the possible applications of AI. There was never any professional valuation until after the start of LOG's administration when Hilco, the valuers, thought that it would be worth between £5,000 and £20,000, and I hope we can see that at <MDR_POST_00000378>. That's the Hilco valuation of London Artificial Intelligence, dated 24 April 2019. If we go to the next page, we can see they give the company overview and, below that, the

valuation overview. The basis of valuation is liquidation value with a forced sale, and on the next page they set out their instructions. On the page after that, they set out their sources of information. They give some information about the company background. Then, on the next page, they explain the position in respect of intangible assets, they explain the basis of value, and then, after that, they explain the valuation approach. Over the next page, they give a valuation of between £5,000 and £20,000. That's the only evidence of any valuation ever being conducted in respect of London Artificial Intelligence.

As regards Reserec, my Lord saw that Mr Sedgwick envisaged an agreement for London Group to invest in Reserec. That evolved somewhat, and we see, at <MDR00008740>, at page 3, there's an email from Jagadeesh Gorla to Mr Hume-Kendall and Mark Ingham regarding investment by London Group, it says in the subject of the email, at the bottom left, "into Jaggu", he means into his company, Reserec. He says: "As we discussed, I had a thought about the investment by London Group to take forward the business to next level. It is really exciting to have take help from you and the London Group to not only take this company forward but also help build the trading side of London Group business.

"Based on our discussion, I had discussed with Mark and I have outlined the set of terms and attached to this email. Please have a look at it and let me know what would be the next step."

The attached term sheet that he provides is at <EB0075395>. It is a proposed -- it says "Proposed terms for share purchase in Reserec". It says: "1. Jagadeesh Gorla will sell 20 per cent of his holding in Reserec Limited to London Artificial Intelligence Limited (or other nominated company if required).

"2. Sale price = £1.5 million payable over a 12-month period as per schedule of payment detailed below."

The schedule shows 12 instalments that are to be paid or 20 per cent of the equity; each instalment will pay the specified percentage of shares. The first instalment will be £250,000 each and they will result in a transfer of 3.33 per cent on each occasion. The subsequent payments will be £100,000 and each of those will buy a further 1.33 per cent. The cumulative shares will be as set out in the right-hand column. Mark Ingham sends an email to Elten Barker, <EB0075400>. He says to Mr Barker that he wants to give him a quick heads-up on possible large events requiring cash. The first is a further loan to Asset Mapping. The second is purchase of Jaggu.com:

"20 per cent share purchase for £1.5 million -- I sent you Jaggu's proposal earlier today. This would need a 250K payment on signing of contracts ... Then £250K next month and then £100K a month for 10 months. This deal has been cooking for some time would be good to put it to bed."

At <EB0075508>, Mr Hume-Kendall emails Mr Ingham. He is responding to an email from Mr Ingham, saying: "As we have previously discussed -- shall we make it happen?"

And he replies, "Yes, please".

The signed investment agreement is at <EB0085959>. It is dated 21 March 2018. It's an investment agreement between ITI, Mr Gorla and Reserec Limited. On page 6, we can see there are two components to it. First, in clause 2.1:

"The founder shall sell and the investor shall purchase the founder sale shares at the price of £202,500 which shall be paid in accordance with the provisions of clause 4."

So that's a conventional share transfer. In 3.1, the investor applies for the allotment and issue to it of the subscription shares, so this is an allotment of shares. On page 7, we see precisely how it's meant to work in clause 4.2(b):

"The investor shall pay the founder £101,250 for 1,350 founder sale shares and shall pay £129,750 to the company for 1,730 subscription shares." That's to happen on the completion date. Then, on page 8, in clause 5.1, the rest is to be paid in instalments over a period of time from April to December 2018.

Because it's a combination of transfer of existing shares and issue and allotment of new shares, the percentage shareholding over time isn't entirely straightforward to work out because the total share capital is increasing as additional shares are allotted. But we have set it out in our opening written submissions at <A2/1/153>.

As we set out in H8.15:

"ITI used monies from LOG (and ultimately LCF) to make payments of £231,000 on 23 March 2018 to acquire the first 3,080 shares in Reserec. ITI now owned 3.6 per cent of Reserec."

Then in H8.16:

"On 20 April 2018, ITI used monies from LOG (and ultimately LCF) to make payments of £231,000 to acquire another 3,080 shares. ITI now owned 7.15 per cent of Reserec."

Then over the page, in H8.17:

"ITI proposed to use further monies drawn down by LOG on its facility with LCF to make the further payments of £129,500 each on 10 May 2018 (giving ITI a total of 8.9 per cent of Reserec), 14 June 2018 (giving ITI a total of 10.7 per cent of Reserec), 12 July 2018 (giving ITI a total of 12.4 per cent of Reserec) and 10 August 2018 (giving ITI a total of 14 per cent of Reserec)."

As we say in H8.18:

"Thus, on 2 February 2018, at the start of the payments to Mr Thomson, [Mr Hume-Kendall, Mr Barker and Mr Golding] which were later sought to be justified by the LPE SPA, ITI did not yet own any shares in Reserec; whilst, on 3 July 2018, by which point £20 million had been paid to [Mr Thomson, Mr Hume-Kendall, Mr Barker and Mr Golding], ITI owned only 10.7 per cent of Reserec, for which it had paid a total of ... £721,000."

As we note, that's money that had been borrowed from LOG which in turn got it from LCF. But as we say in H8.19:

"Clearly, this could not justify the payments of £20 million to [Mr Thomson, Mr Hume-Kendall, Mr Barker and Mr Golding]."

My Lord saw earlier that Mr Luke Tofts of GCEN had asked Mr Thomson for documentation and Mr Thomson provided him with the SPA that was seemingly signed on 3 July, although backdated. I think we see that at <MDR00160089>. I think this is the email we saw earlier where Mr Thomson forwards it. I got the reference wrong when we looked at it the first time. I think the correct reference to the attachment is <MDR00160092>. Yes, that's it. So that's the backdated LPE SPA, as we call it.

We then need to look at <MDR00161123>, where Luke Tofts replies to Mr Thomson, saying: "Hi Andy.

"Thanks for sending this over. Just a couple of questions that I'll need to cover to add details to the system:

"To confirm the payment was made on behalf of London Power Corporation to purchase shares of: "London Artificial Intelligence Limited. "Intelligent Technology Investments Limited. "Asset Mapping Limited.

"The payments to yourself were in relation to shares that you owned in the companies mentioned above? "Would you kindly confirm the nature of business and activities of these companies please?

"Will you confirm if an independent valuation was sought for the companies please? If so, would you be able to share it?

"Sorry to ask so many questions, but a lot of the companies involved seem to be newly formed and as you're receiving payments to your personal account I need to ensure I have a thorough understanding of everything and supporting docs.

I think the next document to look at is <MDR00161173>. Although I may have got that wrong <MDR00161173>. Let's have a look. No, that's the same email. So, the next email to look at is <MDR00161195>, Mr Thomson's response:

"Hi Luke.

"I can confirm the points you make and can confirm the companies are all of a technological nature based around artificial intelligence that compliments LPC's future business mix. I would like to give you more detail but I am under an NDA and it involves market-sensitive info that could affect a connected listed company that LPC has convertible options in. "There are a number of newly formed companies however the technology behind them has been in development for a number of years, the companies were formed to allow them to move to a more corporate basis as opposed to a group of individuals working on a new technology.

"When the purchase was transacted the board considered various valuation methodologies but as the technology is cutting edge the decision was based around the additional value they will bring to the company. As this includes market sensitive insider information I am not able to share it however I can confirm that EY and Mazars were involved.

"I hope this answers your question, if I can be of any further assistance just let me know." Well, we haven't seen any evidence of an NDA. We have got no idea what he's talking about when he refers to market-sensitive info that could affect a connected listed company and his reference to insider information. It seems that he's trying to bamboozle Mr Tofts or to blind him with science.

Mr Tofts asks if he could be provided with whatever is available, and Mr Thomson's response is <MDR00161432>. I think we need to see the next page. Mr Thomson says on the right:

"Hi Luke.

"Happy to help where I can I'm just mindful of the insider/NDA. I really appreciate your guys going above and beyond for me."

Luke replies on the left:

"We're happy to have the docs after the information is no longer classified as inside.

"But if there are any documents regarding the ownership of the IP (happy for specifics to be redacted) by those companies or valuations of the companies by the auditors it would be helpful at this stage." Mr Thomson doesn't provide him with any more information. That's 24 July 2018.

Four days before that, at <MDR00160997>, we see that Katie Maddock emails Luke Tofts to say: "Hope you're well."

The subject is "4.5 million". He says:

"I'm about to send over 4.5 million to the same account details as before as per Andy's request." On the same day, at <MDR00006994>, at page 5, in LCF's bank account statements, we see, towards the bottom, LCF pays £4.5 million to GCEN. Three days later, at <MDR00161073>, Mr Barker emails Mr Thomson with the subject "Share payments", and he says: "EB 7.5 per cent = £375,000 .

" ...

"SG 42.5 per cent = £2.125 million .

" ...

"SHK 42.5 per cent = £2.125 million (leave in GCEN). "Thank you.

"Elten Barker."

We can see he's sent it from his iPad.

Mr Thomson implements that instruction. He emails Luke Tofts at <MDR00161081>. This is 23 July 2018. Subject "Payments from distribution account". He says: "Hi Luke.

"Please can you make the below payments from the LCF distribution account."

It is £375,000 for Mr Barker, £2.125 million for Mr Golding and £375,000 for Michael Thomson, ie, Mr Thomson, the first defendant:

"Hope the above is okay, if you need any further confirmation please do not hesitate to call." At <MDR00161196>, Leyla of GCEN, about a quarter of the way down the page, says:

"Hi Andy.

"The payments below have been processed. "You currently have a balance of £1,660,513.50 on your account."

He replies:

"Thank you, Leyla."

We can see that also from the GCEN statement, <MDR00220172>. At the top of page 2 are the payments that we saw previously. Towards the bottom of that page is the sum of £4.5 million coming in and we see the payment out to Mr Barker, the payment to Mr Golding and, over on the next page, we can see the payment to Mr Thomson. The balance is, as Leyla has said, in the top right of the table.

So, this is a further set of payments. How are these to be justified? This is what becomes the LPT SPA. At <EB0094841>, we can see, on 20 July 2018, Mr Sedgwick emails Mr Hume-Kendall and Mr Barker with the subject "Distribution in specie of the shares in LPC". He says:

"Please find attached minutes of the meeting approving the distribution of the shares in London Group LLP to the two of you.

"We need to consider when actually doing the distribution whether the shares get distributed to just the two of you or to each of the beneficiaries you hold share for."

The attached minute is <EB0094843>. It is a London Group LLP minute, minutes of a meeting of the members of London Group LLP on Thursday, 19 July 2018. It is said to have been attended by Mr Hume-Kendall and Mr Barker.

In paragraph 4.1, it says:

"The chairperson then reported that the members were being asked to consider a proposal that the LLP distribute to the members those assets described in paragraph 4.3 below."

That's defined as "distribution in specie": "4.2 if the members resolved to make the distribution in specie, it would be completed immediately to the members specified in paragraph 4.4. "4.3. The distribution in specie shall be satisfied by the transfer of 50,000 ordinary shares of £1 each in London Power Corporation Limited and 25 million redeemable preference shares ... in London Power Corporation."

They are said to be shares of 1p each. Those are defined as the assets.

In 4.4:

"The members to whom the assets will be transferred are Simon Patrick Hume-Kendall and Elten Herbert Barker."

It is said that the distribution in specie is approved.

There is a signed version of this at --

MR JUSTICE MILES: Sorry, just a sec. Right.

MR ROBINS: There is a signed version of this at <MDR00163493>. The signatures should appear on the next page. It is signed by Mr Hume-Kendall.

It must have been signed on the 20th, not the 19th, as he said, because it was first circulated on the 20th. On the same day, the 20th, the company, London Power & Technology (2018) Limited, was incorporated. That's the company that later changed its name to London Power & Technology Limited but, on incorporation, it's London Power & Technology (2018) Limited. Seven days later, at <D2D10-00003269>, we see a London Power & Technology (2018) Limited board minute with Mr Hume-Kendall as the sole director in attendance. It says that Mr Barker and Mr Sedgwick were also in attendance. It is signed by Mr Hume-Kendall on the right.

On the first page, it said in paragraph 2.1: "The purpose of the meeting is to consider and if thought fit resolve that the company [London Power & Technology (2018) Limited] purchases the shares held by Simon Patrick Hume-Kendall and Elten Barker in London Power Corporation Limited."

That's defined as the target. In 2.2:

"Simon Patrick Hume-Kendall and Elten Barker are the members of London Group LLP which is the owner of all the ordinary voting shares and all the redeemable preference shares in the target. London Group LLP has resolved to distribute to its members Simon Patrick Hume-Kendall and Elten Barker all its shares in the target.

"2.3. The proposal is that Simon Patrick Hume-Kendall and Elten Barker will transfer their shares in the target to the company on terms that the company will issue to each of them 25,000 ordinary shares of £1 each in the company and will pay for the redeemable preference shares a sum to be calculated on the basis of the value of the redeemable preference shares as set out in the articles of association of the target." We will see those articles in a moment. But those resolutions are said to have been resolved. On the same day, we see the execution of a share purchase agreement at --

MR JUSTICE MILES: Sorry, can I just read on. It says "resolved to purchase the shares ..."

MR ROBINS: Yes, it gives the amount in 3.2, £32,225,000.

MR JUSTICE MILES: These are the redeemable reference shares in LPCL?

MR ROBINS: That figure in 3.2 is the figure we see in the share purchase agreement at <MDR00008549>. It is a share purchase agreement between Mr Hume-Kendall and London Power & Technology (2018) Limited. On page 3, we can see "Parties", 1, Mr Barker is a party, although he is not mentioned on the front page. It is dated 27 July 2018. The purchaser is London Power & Technology (2018) Limited.

The term "Company" is defined to mean London Power Corporation. The sale shares are the 25 million redeemable preference shares of 1p each in the company. The purchase price is the price to be paid in accordance with clause 3. Clause 3 is on page 4, at the bottom of the page:

"The purchase price is £32,225,096, payable as set out below. The purchase price is based on the draft balance sheet for the company as at 31 May 2018 and is subject to variation in the event that there is any change in the audited accounts for the company when they are produced to the intent that the purchase price shall be the sum which is 30 per cent of the net asset value of the company as at 31 May 2018. In respect of each payment pursuant to clause 3.2, the parties will consider if there has been any change in the net asset value of the company and if there has the amount payable in respect of that instalment shall be adjusted accordingly."

On page 9, we see the signatures. It is signed by Mr Hume-Kendall, Mr Barker and, secondly, on behalf of the purchaser by Mr Hume-Kendall again. So, as my Lord can see, this SPA postdates the first payments that are made under it. We saw those being made on 23 July. This is signed on the 27th. I will come back to the price in due course, but I need to deal first with the further payments. Those are set out in our written submissions at <A2/1/163>. In I5.1, we say:

"With the LPT SPA in place, payments to [Mr Thomson, Mr Hume-Kendall, Mr Barker and Mr Golding] from LCF could continue."

In I5.2, we explain that, on 3 August 2018, LCF paid a little over £2.5 million to GCEN which arrived in GCEN's account on the same day:

"Leyla of GCEN emailed Mr Thomson to say, 'We have received [just over £2.5 million] for your LCAF distribution account. Your total balance is now [a sum a little in excess of £4.66 million]. Please do let me know if you wish to make any payments out'." Mr Thomson replies, copied to Luke Tofts: "Great. The £2.5 [he means million] will be distributed shortly. It's in connection with preference share purchases. Luke I have the paperwork for this." At I5.4, on 7 August 2018, Mr Barker emailed Mr Thomson to say:

"Please can you send SHK's share payment, thank you. E."

And he then says:

"SHK £2.125 million", and he gives the sort code and account number. As we say in I5.5, this seems to have been Mr Hume-Kendall's allocation from the payment on 23 July when Mr Barker had said, "SHK 42.5 per cent ... (leave in GCEN)".

In I5.6, we observe that Mr Thomson emailed Leyla to say:

"Please can you send the below payment from the LCF distribution account ..."

And he gives the name Simon Hume-Kendall, the amount £2.125 million and the sort code and account number for Mr Hume-Kendall's bank account.

I5.7, Leyla confirmed to Mr Thomson that this payment to Mr Hume-Kendall was being made. Mr Hume-Kendall received the money on the same day. Then, over the page, we observe, in I5.8, with Mr Hume-Kendall now having caught up with the others, the sum of £2.5 million, which had recently been paid by LCF to GCEN, would be distributed.

In I5.9, Mr Barker sent a message to Lucy Sparks on 7 August 2018 saying, "Can you draw £2.5 million for LOG to be paid to shareholders via GCEN. I'll send the amounts to Andy".

Later on the same day, in I5.10, Mr Barker emailed Mr Thomson in the following terms with the subject "Thank you". He says:

"EB and AT 7.5 per cent £187,500 ...

"SG 42.5 per cent £1,062,500 ...

"SHK, 42.5 per cent £1,062,500 ..."

At I5.11, the next stop was for LOG to make a formal drawdown request to LCF. LOG submitted the drawdown request to LCF in the sum of £2.5 million signed by Mr Barker stating, "Funds to be distributed via GCEN". It looks very much like the other drawdown requests that your Lordship has seen.

Then Mr Thomson emailed Leyla of GCEN, copied to Luke Tofts, saying, "Please can you make the below payments from the LCF distribution account." And he gives the names and amounts we have set out that accord with the instructions given to him by Mr Barker.

On the next page, we explain at I5.13:

"Leyla replied to Mr Thomson, 'I can confirm all of the below is being processed for you. These will all be processed in the morning for you as we are now past the cut-off on the bank for putting on payments'." Then the next day, in I5.14, GCEN paid those sums as set out net of GCEN's payment fee in each case. As we point out, this was the second round of payments in the LPC preference share spreadsheet.

Then I5.15, 17 August 2018, LCF paid a little over £3.5 million to GCEN. LOG sent a drawdown request, signed by Mr Barker, to LCF in the sum of £3.5 million to be distributed by GCEN.

I5.16, Mr Thomson emailed Leyla, copied to Luke, saying:

"You should be receiving £3.5 million into the LCAF distribution account today. Please can you pay it the the ..."

I think it should have said "to the":

"... below accounts ..."

He sets out the names and amounts. It is £1.487 million for Mr Golding and Mr Hume-Kendall, and £262,500 for Mr Barker and Mr Thomson. We should see Mr Thomson's name at the top of the next page. Leyla emailed to say:

"Funds have arrived and I have processed all the below payments. They will be sent out today for you." As we explain, GCEN paid those sums, £1,487,500 to Mr Golding, £1,487,500 to Mr Hume-Kendall, £262,500 to Mr Barker and £262,500 to Mr Thomson, again, in each case net of GCEN's payment fee. This was the third round of payments in the LPC preference share spreadsheet.

Then 15.18, on 11 September 2018, Mr Thomson emailed Chloe, a member of LCF's administrative staff, to say: "Just to confirm LOG will be making a drawing request for £3 million today which is okay to be sent. If we don't have sufficient in the bond account you can temporarily use funds from our company savings account." Then 15.19:

"LOG then submitted a drawdown request in the sum of £3 million, this time payable to LPC. LCF paid [a little over £3 million] to LPC, which paid £1.275 million to Mr Golding, £225,000 to Mr Barker and £225,000 to Mr Thomson. Each payment had the reference PEF SHARE ADVANCE. This was the fourth round of payments in the LPC preference share spreadsheet. (Nothing was transferred to D2 on this occasion. The spreadsheet recording the payments under the LPT SPA states 'SHK payment left in LPC'.")

If we skip to 17.1, which is going to be a few pages later [page 168], we explain that there were then three more sets of payments. First, in 17.2, on 2 November 2018, LOG submitted a drawdown request in the sum of £1.3 million payable to LPC. LCF paid a little over £1.3 million to LPC. LPC then paid £200,000 to Mr Hume-Kendall with the reference "pref share adv". Then, a few days later, a further £300,000 to Mr Hume-Kendall with the same reference. They seem to have been intended, as we say, to address the fact that Mr Hume-Kendall hadn't received anything in the previous payment round.

In 17.3, on 16 November 2018, LOG submitted a drawdown request signed by Mr Barker in the sum of £2 million paid to LPC. LCF paid a little over £2 million to LPC which paid £510,000 to or on behalf of Mr Golding, £510,000 to Mr Hume-Kendall, £90,000 to Mr Barker and £90,000 to Mr Thomson.

Then, in 17.4, we explain the third and final set of payments. On 26 November 2018, Mr Thomson asked Chloe: "Can we get a drawing of £1.5 million out to LOG today?"

She said this would be possible, although it would be necessary to use £450,000 from LCF's savings account. LOG then sent a drawdown request to LCF in the sum of £1.3 million, payable to LPC. But it seems that Mr Thomson then told Mr Barker that more was available, because LOG then sent a revised drawdown request in the sum of £1.5 million, which is what Mr Thomson had mentioned in his email to Chloe.

Then, over the page, Katie Maddock emailed Chloe to say the £1.5 million loan to LOG today is okay to go and Katie Maddock then emailed Luke of GCEN to say: "Further to our telephone conversation this morning we will be sending [just over £1.5 million]. Please could this then be distributed as follows: "EB £112,535.

"SHK £637,500.

"SG £637,500.

"MAT £112,500.

"I believe you have all of the account details from previous payments."

LCF then paid just over £1.5 million to GCEN. Luke emailed to say Leyla will give Andy a call now to verbally confirm. Leyla said:

"I have confirmed the below with Andy and they are being processed."

GCEN then paid the amounts set out as per the email I read out a moment ago. This was the sixth and final round of payments in the LPC preference share spreadsheet.

As we mention in 17.11, by this point, the payments under the LPT SPA amounted to £16.7 million. Due to the grossing-up, the payments of those monies had increased the principal sum owed by LOG to LCF by more than £22 million.

The spreadsheet, we have seen it before, I should show my Lord at this point, <EB0123429>. We need to open it in native form. It contains all the payments that we have just seen. In purple, again, are the payments via GCEN. We saw the other payments not via GCEN. But it is consistent with the bank statements on which our description is based.

My Lord can see the total paid in B23 is £16.7 million. What interrupted that, of course, was the FCA's raid on LCF on 10 December 2018. My Lord can see, in contrast to the position in much earlier transactions when the payments are being made in smaller amounts on a very regular basis, every few days on some occasions, at least every week, the gaps between the payments at this point are significantly larger. There was one on 23 July, then a delay for the next until 8 August, then 17 August, 12 September. Then nothing until 16 November. And again another delay of almost half a month until 27 November. One imagines that there would have been a payment very shortly after the 10th, had the FCA raid not been conducted on that day.

The reason, it seems, for the payments being less frequent is that they are much larger. It is several million pounds on some instances on a single occasion, in contrast to the much more frequent, smaller payments that we saw in the earlier transactions. So, that's the final payment on 27 November, bringing it to £16.7 million, interrupted, as I say, by the FCA raid. Otherwise, it seems they would have continued. My Lord, I see the time. I wonder if that would be a convenient moment to break for the day?

MR JUSTICE MILES: Yes. We will resume on Monday morning.

MR ROBINS: My Lord, I mentioned, I think, last week, that there are a few gaps in the bank statements, and we have spoken to the banks, who would be happy to make good those deficiencies, if your Lordship makes an order. I'm told that an application has been issued and sent to your Lordship's clerk. I'm told it hasn't been served on the other parties yet. So, we are going to need to do that.

Mr Shaw is also going to prepare a skeleton argument for your Lordship dealing with the jurisdictional aspect. So, although it's been sent to your Lordship's --

MR JUSTICE MILES: On what?

MR ROBINS: Your Lordship mentioned, for example, the legislation and Mr Shaw is going to look into that. So, the application has been issued and sent to your Lordship's clerk, but I was going to invite your Lordship not to look at it at this point because it hasn't been given to the other parties yet, and we don't have a skeleton argument. I think the email to your Lordship's clerk might have been sent slightly prematurely. So, although you have got it --

MR JUSTICE MILES: I'm not going to do anything with it.

MR ROBINS: Not anything with it at this stage.

MR JUSTICE MILES: It hasn't yet been provided to the defendants?

MR ROBINS: No, so that needs to be done, which is why I mention it to your Lordship so you don't think it is something that can be dealt with tomorrow or over the weekend before anyone else has seen it.

MR JUSTICE MILES: Well, that's unlikely. I won't do that, in any case, because the defendants should see it.

MR ROBINS: Absolutely.

MR JUSTICE MILES: Good. Then we will resume on Monday. (4.20 pm)

(The hearing was adjourned to Monday, 4 March 2024 at 10.30 am)

Transcript originally produced by:

Epiq Europe Ltd www.epiqglobal.com Lower Ground Floor, 46 Chancery Lane London, WC2A 1JE

And converted to a more readable format using an automated process by:

Daniel Cloake www.mouseinthecourt.co.uk

Investor names and contact information have been redacted