

*Claimants*  
*F O'Connell*  
*First*  
*FOCI*  
*28 April 2023*

Claim No. BL-2020-001343

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

**B E T W E E N:**

- (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 INVESTMENT LIMITED
- (10) HELEN HUME-KENDALL
- (11) FRANCIS MICHAEL WILLIAM STARKIE
- (12) MARTIN STEPHEN RUSCOE
- (13) ERIC BOSSHARD
- (14) ROGER STEPHEN FILTNESS (REPRESENTATIVE OF THE  
ESTATE OF ROBIN HUDSON)
- (15) CHARLES HENDRY

Defendants

---

WITNESS STATEMENT OF FINBARR O'CONNELL

---

**I, FINBARR O'CONNELL**, of EVELYN PARTNERS LLP, 45 GRESHAM STREET, LONDON EC2V 7BG, **WILL STATE as follows:**

1. I am one of the Joint Administrators of London Capital & Finance plc (**LCF**) alongside Adam Stephens, Henry Shinnars, Colin Hardman and Geoffrey Rowley and I am one of the Joint Administrators of London Oil & Gas Limited (**LOG**), alongside Adam Stephens, Colin Hardman and Lane Bednash. I am duly authorised to make this witness statement on their behalf and on behalf of LCF and LOG. I make this statement in my capacity as lead Joint Administrator of LCF and LOG and in support of the Claimants' claims against the Defendants.
2. There is now produced and shown to me a paginated bundle of true copy documents marked "FOCI". All references to documents in this statement are to Exhibit FOCI unless the documents have already been disclosed in these proceedings, in which case I have identified them by reference to the Bates reference numbers listed in the Claimants' disclosure lists.
3. This statement has been prepared following discussions with my solicitors, Mishcon de Reya LLP, over two video calls. During those calls, I was referred to the following documents:
  - (a) The latest progress report for LCF for the period 30 July 2022 to 29 January 2023 [FOCI/373]; and
  - (b) The latest progress report for LOG for the period 17 June 2022 to 16 December 2022 [FOCI/762].
4. Unless specified otherwise below, I have a good recollection of the facts addressed in this witness statement as I have been continually carrying out my role as Joint Administrator of LCF and LOG since I was appointed to those roles.
5. The facts and matters set out in this statement are within my own knowledge and they are true to the best of my knowledge and belief.

**My background**

6. I have been carrying out insolvency and restructuring work since 1984. I have had previous roles as a restructuring partner in Grant Thornton LLP and KPMG LLP. I

have been a Partner in the Restructuring and Recovery team at Evelyn Partners LLP (formerly Smith & Williamson LLP) (**Evelyn**) for 12 years now.

**My role as Joint Administrator of LCF and LOG**

7. I am the lead Joint Administrator for both the LCF and LOG administrations. I am responsible for the overall strategy for the administrations, specifically focusing on asset tracing and investigation matters. I am also responsible for signing off on the Joint Administrators' progress reports which are prepared for the creditors of LCF and LOG.
8. I was the first partner at Evelyn (then known as Smith & Williamson LLP) who was introduced to LCF. I took on the case and chose other members of the team to join me as Joint Administrators. As the senior partner in the department, I am leading both of the administrations.
9. In addition to Joint Administrators at Evelyn, Geoff Rowley of FRP Advisory (**FRP**) has also been appointed as a Joint Administrator for LCF and Lane Bednash of CMB Partners (**CMB**) has also been appointed as a Joint Administrator of LOG.
10. As LCF had an interest in LOG of £122million (being the LCF loan to LOG, plus interest and costs) and because LCF and LOG had different creditors, the Joint Administrators decided to appoint a CMB administrator as a conflict administrator who would be able to oversee LCF's claim in LOG and ensure that there was no perceived conflict between the actions of the Joint Administrators of LCF and LOG. Lane Bednash has been involved in any potential perceived conflicts between LCF and LOG, including financial transactions and other interactions between the administrators.
11. The Joint Administrators decided to appoint a FRP administrator as a conflict administrator in LCF. This is because it became clear that there were potential actions that the Joint Administrators of LCF could take against the auditors of LCF, which were PwC and EY. At the time, Evelyn (then known as Smith & Williamson LLP) had appointed EY as their auditors. This raised the perception of a potential conflict between the Joint Administrators of LCF who were partners in Evelyn (then known as Smith & Williamson LLP). Geoff Rowley was recommended to me by David Hudson, a partner at FRP who had previously worked with the Joint Administrators of LCF and LOG. At some point before Geoff was appointed, Evelyn (then known as

Smith & Williamson LLP) changed its auditors from EY. However, in the circumstances, given that the relationship with Evelyn had only just ended, we decided that we would continue with Geoff's appointment.


### **Progress reports**

12. The Joint Administrators are required to prepare progress reports for both LCF and LOG on a 6-monthly basis. The progress reports are produced for the benefit of the creditors of LCF and LOG and are publicly available at Companies House. The purpose of the progress reports is to provide creditors with the information required under Rule 18.3 of the Insolvency (England and Wales) Rules 2016. This normally includes information about what is going on in the administration and an update on their potential returns. The outcomes and realisations for each of the assets held by LCF and LOG effectively percolates down to the estimated dividend rate for creditors.
13. The latest progress report for LCF is for the period 30 July 2022 to 29 January 2023 [FOCI/373] and the next report is due in June 2023. The latest progress report for LOG is for the period 17 June 2022 to 16 December 2022 [FOCI/762] and the next report is due in May 2023.
14. Copies of all LCF and LOG progress reports which have been prepared are exhibited in FOCI. Two tables are included at Schedule I which list out details of the progress reports, including their dates, the period of time which the reports cover, and where they have been exhibited in FOCI.
15. My team at Evelyn are responsible for the initial drafting work on these progress reports. Clare Lloyd, Associate Director at Evelyn is the senior member of my team who co-ordinates preparing the draft LCF progress report. Geoff Rowley is responsible for providing the Evelyn administrators with an update to include in the progress reports on the details of any work that FRP are carrying out and an update on FRP's fees.
16. Kevin Lay, Director and Head of Corporate Creditor Services at Evelyn and Tom Walls, Assistant Manager at Evelyn are the members of my team who are responsible for preparing the draft LOG progress report. Additionally, Lane Bednash at CMB is responsible for providing updates on the work carried out by CMB as well as an update on time costs to date and estimated time costs for future work.

- 17. The preparation of the draft progress reports starts about a month before their delivery date. The preparation of each report involves harvesting any relevant information from different sources, including professional advisors such as: the Claimants' solicitors, Mishcon de Reya LLP regarding the progress of legal actions; Cenkos Securities plc, advisers on LOG's shareholding in Independent Oil & Gas plc to obtain an update on the shareholding; and Joe Pitt of Fraser Real Estate who has been engaged by the Joint Administrators to provide expert real estate advice on various properties owned by the Defendants. The team obtains up to date information in respect of each of the assets owned by LCF and LOG in the reports and in respect of the time costs to date and estimates for future work from each of the advisors. The LCF progress report in particular lists all of the assets and potential assets of LCF in a table, including the best and worst case outcomes for those assets based on the most recent available information.
- 18. I am responsible for carrying out a review of the content of the draft reports to ensure that each of the reports is factually correct and gives a true and fair impression of the position to the creditors.
- 19. The reports contain a description of an evolving position and in some instances information (such as dividend estimates) is revised in subsequent reports. Taking the reports as a whole, however, I can confirm that they contain a true and correct account of the history of the administrations of LCF and LOG.

STATEMENT OF TRUTH

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Signed: 

Finbarr O'Connell  
Name: .....

02 May 2023  
Date: .....

WITNESS CONFIRMATION OF COMPLIANCE

I understand that the purpose of this witness statement is to set out matters of fact of which I have personal knowledge.

I understand that it is not my function to argue the case, either generally or on particular points, or to take the court through the documents in the case.

This witness statement sets out only my personal knowledge and recollection, in my own words.

On points that I understand to be important in the case, I have stated honestly (a) how well I recall matters and (b) whether my memory has been refreshed by considering documents, if so how and when.

I have not been asked or encouraged by anyone to include in this statement anything that is not my own account, to the best of my ability and recollection, of events I witnessed or matters of which I have personal knowledge.

Signed: 

Finbarr O'Connell  
Name: .....


02 May 2023  
Date: .....

LEGAL REPRESENTATIVE CERTIFICATE OF COMPLIANCE

I hereby certify that:

1. I am the relevant legal representative within the meaning of Practice Direction 57AC.
2. I am satisfied that the purpose and proper content of trial witness statements, and proper practice in relation to their preparation, including the witness confirmation required by paragraph 4.1 of Practice Direction 57AC, have been discussed with and explained to Finbarr O'Connell.
3. I believe this trial witness statement complies with Practice Direction 57AC and paragraphs 18.1 and 18.2 of Practice Direction 32, and that it has been prepared in

accordance with the Statement of Best Practice contained in the Appendix to Practice Direction 57AC.

Signed:   
Barry Coffey  
Name: .....  
Partner  
Position: .....  
02 May 2023  
Date: .....

*Claimants*  
*F O'Connell*  
*First*  
*FOCI*  
*28 April 2023*

Claim No. BL-2020-001343

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

**B E T W E E N:**

- (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 INVESTMENT LIMITED
- (10) HELEN HUME-KENDALL
- (11) FRANCIS MICHAEL WILLIAM STARKIE
- (12) MARTIN STEPHEN RUSCOE
- (13) ERIC BOSSHARD
- (14) ROGER STEPHEN FILTNESS



**(REPRESENTATIVE OF THE ESTATE OF  
ROBIN HUDSON)  
(15) CHARLES HENDRY**

**Defendants**

---

**WITNESS STATEMENT OF FINBARR  
O'CONNELL**

---

Mishcon de Reya LLP  
Africa House  
70 Kingsway  
London WC2B 6AH

Tel: 020 3321 7000  
Ref: DD/BC/EG/61334.1  
DX 37954 Kingsway

**Solicitors for the Claimants**