

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 30 - Wednesday, 1 May 2024

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

Michael Andrew Thompson (D1) is represented by Miss Anumrita Dwarka-Gungabissoon

Simon Hume-Kendall (D2) & Helen Hume-Kendall (D10) settled and are no longer appearing

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

Wednesday, 1 May 2024 (10.30 am)

MR PAUL JAMES CARELESS (continued)

Cross-examination by **MR ROBINS** (continued)

MR ROBINS: Can we go to <C2/3>, page 23, please. Mr Careless, this is your witness statement. In paragraph -- sorry, I have got the wrong page reference. We need paragraph 88. [Internal page 18]. In paragraph 88, you say, four lines up from -- well, four lines from the top:

"GST were the security trustee. If LCF failed to pay the bondholders or went into administration, GST would be controlling the security assets and it was their role to liquidate the assets and pay the bondholders. I thought GST was independent but I didn't know much about it other than what it was." The independence of GST was something that your salespeople emphasised in their discussions and communications with members of the public, wasn't it?

A. Yes.

Q. Could we look at <MDR00044477>, please. This is an email from Scott Allen to a member of the public, and on the left-hand side, three paragraphs from the end, he says:

"An independent security trustee, Global Security Trustees Limited, holds a charge over all LCF's assets ... As an investor, you would jointly, along with all other bondholders, benefit from the charge held on your behalf by the security trustee."

You knew that your salespeople were saying this sort of thing to members of the public?

A. Yes.

Q. If we look at <D7D9-0002637>, we can see a webchat from January which you received and responded to. So, I think you must have read it; yes?

A. Yes.

Q. It says -- the visitor asks, "What is the 100 per cent protection" and Jo says:

"Good afternoon and thank you for your enquiry. I can confirm the London Capital & Finance are regulated by the FCA ... Your funds are protected by the FSCS up to the value of £50,000 whilst they are held with our secure custodian, once your funds are lent out then your bond funds are protected for their full value by our asset backed scheme and this is managed by an independent trustee to ensure that your funds are protected up to 100 per cent at all times." So you knew your salespeople were saying to members of the public that the independent trustee managed the security which protected their funds?

A. Yes, sir.

Q. Can we look at <D7D9-0002723>, please. Again, there's a response from you at the top, so I think it would be right to say that you read it, didn't you?

A. Yes, sir.

Q. Again, in the middle of the page, at the end of the big paragraph, we can see Jo Baldock referring to the independent trustee. You were aware that this was something that featured in pretty much every communication with members of the public in October, November, December, January, February, March of 2015, going into 2016?

A. Yes, sir.

Q. Can we look at <D7D9-0003167>. You've replied with a photo of -- I think that's someone dancing at a hockey game, is it?

A. I don't recall it. I'm --

Q. Is it meant to signify that you thought it was a good chat or that the salesperson, Jo, had done a good job, do you think?

A. Yes, possibly.

Q. You saw she's saying that "Your funds are protected by our asset backed scheme and this is managed by an independent trustee to ensure that your funds are protected up to 100 per cent at all times." You understood this was being used as a line in a sales script, essentially, didn't you?

A. Yes, sir.

Q. Can we look at <D7D9-0003168>. We see the same thing, a reference to the independent trustee. You knew that the trustee wasn't really independent of LCF in any real sense, didn't you?

A. I mean, I don't recall the absolute detail. This is the first six months, and of course yesterday, and of course this morning, we're talking about the entire six months. We were starting to find our feet. Yesterday -- I was running along the Thames this morning and I recognised something on this chat, or one of the chats you just put up previously, regarding this, which might -- you said yesterday, Mr Robins, regarding these chats, that Lewis Silkin wasn't involved, and they were involved, from 2015 they were involved. So I knew they were dealing with this aspect of --

Q. I think you're misremembering. I didn't say Lewis Silkin weren't involved. I asked you if you had met Lewis Silkin at the point we were talking about and you said no. If you would like to revise your answer and say that you had met them at that point, then I have no objection if you would like to change your answer?

A. Sorry, I beg your pardon. I think the wider point I'm trying to address here with regards to this is, I was aware of Lewis Silkin acting on behalf of London Capital & Finance, and I had been comforted by that, and I believed that they were dealing with the borrowers, the loans, the security trustee. I had never met a security trustee properly. You know, it's not something I -- I'm a marketing agency, and I -- we read the scripts we are given by our clients, who are -- you know, who sign them off with their lawyers, and obviously I have seen retrospectively that to be the case. Andy often would mention Lewis Silkin would say this or do that, or so on and so forth. We were pulled up on things quite often. So it is very difficult for me now to suggest to you that I should have known the security trustee wasn't independent or I knew it wasn't. I would have tried to upgrade all of the quality of his products from a marketing standpoint, because it made enormous sense.

Q. Just to be clear, is your evidence that you thought Lewis Silkin were the independent security trustee?

A. No. My evidence is that Lewis Silkin were representing London Capital & Finance, who I presumed were a first-class or first-rate firm no different to the firms represented here today, and of course I'd hoped they might have more sight of these things than --

Q. My question wasn't, "Did you know that Lewis Silkin were representing London Capital & Finance?". Would you like to answer the question?

A. Yes. Could you pose it again, please?

Q. You knew that the trustee wasn't really independent of LCF in any real sense, didn't you?

A. I thought they could have a better security trustee than the one they had. A security trustee's role is to be independent, and I think we need to be careful we don't conflate my view on who they were with what they did.

Q. That's why I'm asking you to listen to the question. Did I ask you if they could have had a better security trustee than the one they did?

A. No, you did not.

Q. Okay. What's the answer to my question?

A. I believed the security trustee was doing an independent job, is the answer to your question, at that stage.

Q. You didn't really have any information about the security trustee, did you?

A. Not really, no.

Q. Beyond the fact that you knew it was connected in some way with Andy Thomson?

A. That is correct.

Q. Can we look at <MDR00038468>, please. If we look at the next page, we can see that a member of the public has asked for some information about Global Security Trustees. The visitor said they are unable to locate the company. They have asked for various items of information.

On the left-hand side, we can see that Jo has forwarded that to Andy, copying you and John, and you have replied to say:

"I will chat with Andy on Thursday about setting up a good online trail of provenance to ensure when Googled it provides comfort."

Were you saying there that you would generate some materials on the internet to satisfy members of the public as to the credibility of GST?

A. I'm saying that, as a marketing agency, I want people to be able to scrutinise the people who are providing the security trustee role, yes.

Q. You understood that if it would be advisable for the security trustee to have some online provenance, Andy was the person who could decide whether or not that should go ahead?

A. Well, I presumed he would -- well, I suppose they would be the people who would okay it. But, yeah, I'm asking him to get them more prominent and to sort of give them more presence, yes.

Q. Can we look at <MDR00038884>, please, at page 2. Jo Baldock emails Andy, 6 May, saying:

"We have had another call in today from a client wanting information on GST, as we were unable to give him any info we have advised him that a senior officer will give him a call. Please can you call him ... Please let me know once you have spoken with him and how you got on and what you said, as I said the other day it's embarrassing and unprofessional on our part when we don't have enough information."

Do you remember when Jo raised this point with Andy?

A. I mean, I can't specifically remember it, you know, very specifically, but I kind of generally have a recollection of us pressing Andy to improve the quality of his third party advising companies, like the trustee, yes.

Q. Given that he had chosen GST, which you knew in some way was connected to him, your concern was how it looked to members of the public, wasn't it? Your concern was that it impeded bond sales?

A. Well, yes. I mean, people want to have scrutiny of their investments and I wanted to try and sort of help them do that, and the best way for us to do that was to sort of, you know, assist in giving them that visibility.

Q. When you say "assist in giving them that visibility", you mean, for example, setting up a GST website?

A. Yes.

Q. If you set up a website for GST, in real terms, nothing would change, would it, apart from the fact GST has now got a website. But, apart from that, nothing has changed?

A. Well, I think it would allow -- well, I presume, on the information that they would furnish on the website, it would assist people in understanding more about them.

Q. Might also, for example, set up a Best Security Trustees website and have them listed in first position?

A. Right.

Q. Is that the sort of thing you're talking about?

A. I think you might be being facetious there, Mr Robins --

Q. No, it is a genuine question. Is that the sort of thing --

A. Maybe I was suggesting that. I want to make sure that my client has the best providers. You will see plenty of emails where I'm saying, "The best quality lawyers, the best quality third parties, auditors", everything else, because that gives the client the comfort that the business is good, and, so, yes, I would do whatever I can to try and promote that.

Q. You would have thought that, in an ideal world, they should have used someone else, but given that they'd used GST, the only solution was to create some sort of online provenance, wasn't it?

A. At that stage, yes. I think we may have pressed them to -- I may well have -- or Kerry may well have pressed them to improve the security trustee, and I think there is evidence perhaps somewhere where I have emailed them and said, "You need to get a better trustee" because of all these issues we were having with these bondholders who were --

Q. I think you're referring to <SUR00019510-0001>. You say:

"Off record here Andy but I need to say this. GST need a proper online presence. They play an important role yet anyone [doing] DD won't find much about them and they are not FCA regulated.

"In an ideal world, LCF being a new/small company should never have used GST. Should have used a market leader who is FCA registered. Yes, only 5 per cent of enquirers contacts us about it but can you imagine the amount that don't?!"

"Jo is totally justified in asking for help until the online provenance exists and is sufficient. Which I am happy to set up gratis so the issue disappears." Yes, in an ideal world, you would have preferred them to use someone else, but they'd used GST and your advice was, "They need a proper online presence and need online provenance and I can set it up for you"?

A. Yes.

Q. Can we look at <SUR00132807-0001>, please? At page 2. Mark has seen the email chain. And he emails Andy. We can't see it here but we can see it on the previous page. He copies you and John Russell-Murphy. He says: "Just seen the trail below.

"There is a statement that GST are independent. "Without casting aspersions or commenting on their magnitude there are a number of connections between LCF and GST.

"Whilst doing our DD we did note that:

"GST, LCF and LG (and subsidiaries etc) share the same registered office.

"The sole director and shareholder of GST is also company secretary at LG and indeed most of LG's group. "LG's group presumably owning the main UK asset as well as overseas assets upon which LCF is relying. "As I am sure you are very aware."

Those are all things that Mark had explained to you in your discussions about the DD carried out, weren't they? This wasn't a surprise to you when Mark sent this email to Andy?

A. I can't remember if we did discuss it. To be fair, Mr Robins, I don't remember it being an enormous focus. It was something that a small proportion of people were bringing up and we wanted to address it. And of course, as you can see, we are trying to do so. If I was cc'd into it, then, of course, I would have read it, yes, or perhaps discussed it.

Q. When Mark says that GST are not independent. You must have realised what your salespeople had been saying to members of the public was not true?

A. I don't know if I connected that. I think it is worth pointing out on the things my salespeople say to the public are not random. They are scripted. And the script is provided to us by LCF, which we believed was assisted with Lewis Silkin. I mean, you know, it is kind of very difficult to break it down now on the timings on when we found things out and when changes were made to the script, but we definitely would not have continued to mislead the public when information was found. We would have done our best to try and correct that, or indeed go and ask questions of Andy to sort of explain to us precisely what's happening.

Q. We saw some examples yesterday -- you're saying this is another example -- LCF is telling you things, Andy is telling you things, that turn out not to be true. You can't possibly sit here and say that, at all times, you believed that LCF was a bona fide, legitimate, lawful business, can you? You have got this guy who keeps telling you things that turn out to be untrue?

A. But, conversely, many of the things he said did turn out to be true. For example, "We are going to get PwC to audit our accounts", he did that. "We are going to get Ernst & Young to audit our accounts", he did that. "We have got the best barrister in Lewis Silkin, who worked at the regulator for ten years, to ensure your documents are first class", he did that. At the time, I didn't have fraud on my mind and, therefore, I wasn't picking apart, in quite the same way we are today, or indeed during this trial, on everything he said as an aspersion of fraud. It was a new business and new businesses are a little bit chaotic. We are not NatWest Bank, we are a start-up -- well, we are, they

are too. I appreciate yesterday you said they'd been going since 2013, but I really didn't have a great deal of sight of what they were doing. I knew it was a money lender, but I didn't know how much, and the graph you showed yesterday --

Q. You knew that LCF and GST shared the same registered office, didn't you?

A. I presume so, yes.

Q. You knew the sole director and shareholder of GST was the company secretary of LG and most of LG's group?

A. I don't recall that, I'm afraid, Mr Robins.

Q. If Mark has put it in this email, as you say, you would have read this email and known this at the time, wouldn't you?

A. Yes, sir.

Q. Then he says:

"LG's group presumably owning the main UK asset as well as overseas assets upon which LCF is relying." You knew that at the time?

A. I just genuinely don't recall. At the time, I would have hoped Mark would have been pressing to get things in a sort of better shape. It just wasn't the alert -- the red flag that you are waving around now, it wasn't back then.

Q. It is obvious, isn't it? The point he's making is that the borrower, which is said to have provided security, has a hold in some way or is connected to the security trustee which is meant to enforce the security in the event of default. It is obvious, isn't it, what he's saying? This isn't some obscure or technical point. It is a blindingly obvious problem that he's pointing out in the email?

A. Mr Robins, I genuinely did not believe this to be a fraud. Even after I was arrested, I didn't believe this to be a fraud, frankly.

Q. Was that my question?

A. No, but your assertion is I should have detected --

Q. No, my question is, did you know the things set out in this email? Did you understand the point Mark was making?

A. Yes, sir.

Q. Could we look at page 1, please. At the bottom, John Russell-Murphy says:

"Thanks for this Mark, this is very useful as Andy is being quite challenging at the moment. Any other linked directorships, et cetera, would be useful." If we look at the top, above that, Mark sends, and you're copied:

"The attached is the result of the DD done. Colours pick out connections. Not all companies may be relevant. We can discuss in detail next time we meet up."

I want to show you the attachment. It is <SUR00132808-0001>. We need to see it in native form. If we could just scroll along the top, we can see London Group Plc, Leisure & Tourism Development Plc, London Trading & Development Group, Lakeview Country Club (Cornwall), Leisure and Tourism

Limited, CV Resorts, CV Hotels, London Efficient Energy, International Resorts Group Plc, LV Resorts Limited, Lakeview Resort Property Limited, Lakeview Lodges Limited, London Capital & Finance Plc, Waterside Villages Plc, Lakeview Country Club Limited, London Support Group Limited, International Resorts Partnership LLP, Lakeview UK Investments Plc, et cetera, including, we see, Global Security Trustees there. If we scroll back to the left, what you can see that Mark has done -- this is what he's calling the DD, he's extracted the information from Companies House, publicly available information, to try to find all the linked companies in which the same small group of individuals are involved.

Given that he was doing this DD and, as you said yesterday, keeping you informed, this is something that he would have shared with you before he sent it to John Russell-Murphy; yes?

A. Perhaps, and I'm very pleased to note that he does do this level, and I'm aware that he was -- out of all the people that did DD in our company, Mr Robins, it was Mark and Kerry who did the most continuous DD, at any rate, and we would have discussed this. I'm not sure if I would have received it or he perhaps would have walked to our office and shown me. But, yes, I probably would have been told about this by Mark.

Q. The reason he said in the covering email not all of the companies may be relevant is because he hadn't been able to work out at this point which of these companies, if any, were the borrowers and what security, if any, had been provided?

A. Yes.

Q. So he still hadn't got anything from LCF or Spencer or Simon. He was just digging around on the Companies House website, wasn't he?

A. Yes, I think this is what that is, yes.

Q. He still hadn't found any evidence of any security?

A. No. No, I can see down on this spreadsheet it says 35 million in one of these companies. I also noted a minute ago that the trustee of that company was, you know, a lawyer. You know, I mean --

Q. He hadn't found any evidence of any security over any assets, had he?

A. I don't know by this if he -- you know, what's -- we would have pressed them for the security. That would have been something we would have done.

Q. But he hadn't found any yet, had he?

A. I don't know if he'd found any yet. Assets of £35 million --

Q. If this is the result of his DD and it doesn't mention any security, he hadn't found any yet, had he?

A. Do you agree it says 35 million quid at the bottom left in column 28?

Q. Absolutely. Where is something to show that he'd found evidence of security over those assets worth 35 million quid? Where is that?

A. I'm not quite sure what it shows because I'm -- sadly, I don't have that level of accounting skill --

Q. You were just telling me a moment ago. You know it shows there was no security and you know Mark hadn't found any yet?

MR JUSTICE MILES: Mr Robins, can I just ask you about that, just to make sure that this is a fair question? I thought that, on 12 April, Mr Lee had sent both of those documents.

MR ROBINS: He sent an unsigned facility agreement, a guarantee and a debenture. I don't remember whether the debenture is or is not signed.

MR JUSTICE MILES: That's what I was thinking of. But that's given by London Group?

MR ROBINS: The guarantee is given by London Group Plc, yes. The debenture is given by Leisure & Tourism Development.

MR JUSTICE MILES: Right.

MR ROBINS: Sorry, I should have been clearer.

A. Does that clear up the question you asked me?

Q. It does. Maybe I can rephrase it. You hadn't seen any evidence that London Group Plc had given any security over its assets, had you?

A. I have to be clear with you. I didn't -- I wouldn't -- this level of detail would have been something that I wouldn't have looked at. My concern -- I would have relied on Mark to say, "Is there enough security?", and, indeed, Kerry, I would have asked her, too, and she would have asked Mark. The one thing that strikes me about this is two things.

Firstly, there is a company here with £35 million. We are talking about mid 2016. They had probably raised less than 5 million quid.

Two, there is a lawyer from -- you know, I didn't know what I know now, but the lawyer from -- I can't remember the firm, the firm in Tunbridge Wells, which is on here as well. There just wasn't the flags that you are waving around as much as it looks like today in the sort of position we were in.

Q. This is the point of my question.

A. Yes.

Q. The yellow column, Leisure & Tourism Developments Plc, is a company that had given a debenture to LCF which Alex Lee had sent to Mark and which Mark had discussed with you.

A. Okay.

Q. That has assets, net assets, in column G, of £2, that's G28. What you are focusing on is B28, a different company, London Group Plc, which, although it had given a guarantee, didn't seem to have given any security. There was no security that Mark had seen over those assets.

A. Right.

Q. You understood that at the time, didn't you?

A. I'm afraid I couldn't even tell you the difference between a guarantee and a debenture, but, yes, if that's what the evidence shows, then I would have to agree with it.

Q. Notwithstanding that, you remained very determined to sell LCF's bonds?

A. I believed back then that company was -- had the hallmarks of one of the best bonds in the business. I think it had surrounded some great companies, it had a good business model. I just didn't have the level of fear that you suggest I should have had. I mean, it is a start-up. There are going to be issues. They are going to have to shake out into a bigger position. At this time, Andy would have -- I'm not sure when this is, but at some point in 2016 he had engaged PricewaterhouseCoopers and he

had told us that he was engaging with them for an audit, and of course that gave me comfort as well, knowing that they were then going to scrutinise their sort of -- their accounts and their business model.

Q. At this point, what Mark was telling you was that there was a complete lack of security, wasn't he?

A. I just -- I'm afraid I can't recollect if that's precisely what he was saying. He's very cynical. Unless it is a proper audit from a big -- he's an auditor. Unless it is an audit, he won't be satisfied. He just wouldn't be.

Q. He might have been satisfied by some evidence of security, surely? He could be given a debenture in favour of LCF by a company with assets, for example?

A. I presumed through all these people, these professions, who were being paid, there was one, Mr Robins.

Q. Can we look at <SUR00020067-0001>. This is the day after Mark's email attaching the spreadsheet. You are emailing your team:

"Our larger objectives are coming into view. I can see the leads -- sales and now -- product -- coming together. Here is the macro plan."

Then you say in the second line:

"Be advised it is entirely possible to achieve my deadlines with organisation and a genuine sense of urgency."

"We will achieve our goals as set out below." At the end of the next paragraph, you say: "I simply care about results."

"We will generate cash, profit and create significant capital value ..."

"In order of priority to achieve: 1. LCF to £4 million -- deadline -- 30 days. New fucking brochures, new API, savings nest live, leads increased to 150 per day and new AMs."

Your accountants told you there is a complete lack of security and you don't care because you want to carry on making money. That's the reality, isn't it?

A. No, that's not the reality. I'm afraid the fruity language I use in emails when issuing orders to troops to get things moving is part of a start-up business. You can't hang around. I've got to make things happen. I can't sit here and apologise for writing emails. I didn't think this was a fraud. I mean, it's just as simple as that. I appreciate what you are pointing out there with that spreadsheet, that I kind of should have worked these things out, but it just didn't seem that at the time, Mr Robins.

Q. Let's move to three days later, <SUR00132905-0001>. Bottom of page 1 and on to page 2. Jo Baldock sends Andrew Thomson an email copied to John and you, "Common questions":

"Good morning Andy."

"Further to our meeting on Tuesday I have now spoken with the account managers and we have compiled a list of frequently asked questions. As agreed you will give us your support by providing what you see as the correct answers to the following."

She sets it all out in capitals. It is a bit shouty. But she says:

"GST."

"WHO ARE THEY?"

"WHAT DO THEY DO FOR THE CLIENT ..."

"WHY IS THERE NO ONLINE PRESENCE OR LITERATURE." Then "LENDING":

"HOW MANY CLIENTS HAVE WE LENT TO?"

"WHO DO WE LEND TO, WHAT SECTOR?"

"AVERAGE LOAN SIZE?"

"WHY IS THERE NO MENTION OF HOW TO MAKE A LENDING APPLICATION, THERE IS NO FACE TO THIS SIDE OF THE BUSINESS OR CONTACT NUMBER, ETC."

Then under "ASSETS":

"WHAT ARE THE ASSETS HELD AND UNDERLYING SECURITY? "WHAT IS THEIR VALUE?"

"WHERE CAN I FIND THIS INFORMATION?", et cetera. Mark Partridge didn't know the answers to these questions, did he?"

A. I presume not all of them, no.

Q. We can see, on the top left, he emails you, saying "I'd like to see the answers!!!"

You knew that he didn't know how many clients LCF had lent to or who they lent to, what sector, average loan size, what the assets are, what's the underlying security, what's their value, where can he find that information. He hadn't been able to discover that yet, had he?"

A. I mean, I submit to you on this, this is an example of us trying to establish facts with our clients which are helpful for the customer, but of course us. Please note that I send this on to my accountant. I am keen for him to see we are pressing them for answers. I appreciate the question is, he didn't have the answers he wanted. Of course not. We were very early. There was a lot of cynicism in this marketplace, as I mentioned to you yesterday, and I felt like -- you know, it is true to say that Mark was keen to get to the bottom of it, and I'm clearly trying my best to help him get there, and -- Jo -- I must repeat what I said yesterday about Jo. This is obviously a little bit shouty. Jo was first class and she had a previous relationship with Andy because she was John Russell-Murphy's assistant, and she would have been keen to establish this because she was at the front-line speaking to the bondholders, she was the account management sort of manager.

Q. But Mark didn't know the answers to these questions?"

A. No, sir, he did not.

Q. Can we look at <SUR00021238-0001>, please. This is four days later, the 17th. In the middle of the page there's an email from Mark to you, where he says, four lines down:

"Are you going to get a signed debenture from him? He studiously ignores this."

He is talking about Andy when he says "he", isn't he?"

A. Yes.

Q. He says:

"Do I have permission to push him further on this complete lack of security?"

You knew Mark thought there was a complete lack of security, didn't you?

A. Yes.

Q. Then he says:

"Did he answer Jo's shouty questions the other day?" He's referring to the email we just looked at, isn't he?

A. Yes, sir.

Q. At the top is your response. In the fourth paragraph you say:

"Re AT -- let's wait to see his response to Jo's email before we make our next move. I am also Jedi Knighting him on Thursday so need him to be the right side of happy!"

Just for my understanding, are you referring to the Jedi Knight in Star Wars who wields a supernatural power known as "the Force" which they can use to achieve their objectives?

A. No, the other one, Mr Robins. Yes, of course I am. It is fruity language because he is my friend and I'm not -- it really isn't as serious as -- I have a very colloquial relationship with Mr Partridge, as you see. We are friends. We remain friends. We were friends before. He helped me sell my first large business. I just --

Q. I'm just asking you to clarify. It is just a way of saying you're trying to get him to do what you want about something or other?

A. I'm trying to convince him -- yes, it is, correct. Jedi Knight, yes.

Q. Can we look at <MDR00041097>, please. We need to look at the right as well. We can see that there is -- oh, no, we don't. It is at the bottom here. We can see there is Chris Barnard, one of the salespeople, isn't he? He's received a question from an investor. He sends it to Andy. Then you reply to say: "Chris, I'm going to jump in here. I don't think it's a good idea to let prospective investors dictate questions to us. What's next? What is Andy's star sign? I think the key is not to let the customer or prospect dictate the terms so easily."

Were you anxious about the idea of letting prospective investors ask questions about LCF?

A. No, I was not.

Q. You were worried because you didn't know the answers to those questions?

A. I was trying -- is Andy cc'd? He is. I'm trying to be polite to my client in front of my member of staff. Chris, another great account manager, very good. I mean, I -- I'm just trying to jump in and save Andrew's blushes. My view on Andrew was that he did have a banking background. I think this is also emblematic of lots of other things you showed me yesterday with regard to members of the public, anonymous or otherwise, saying things online about LCF, you know, out of the thousands of people who would have seen it. People do say things. I think you've got to be a little bit mindful. You can't scale a business if you jump to every individual -- you've got to build a process for these things, which is why I would have been keen to flush it all out online and put it on websites, and so on.

Q. The issue was, people were asking things like we saw in Jo's shouty emails, "How many clients have we lent to? Who do we lend to? What sector? What are the assets held and the underlying security? What is their value?". You didn't know the answers to those questions and you were getting pretty concerned about members of the public asking questions?

A. I don't think that's a fair characterisation of this email, sir.

Q. Can we look at <MDR00041314>. Page 2. Andy says: "I've put together some answers to the account managers questions ..."

We can see that that's then forwarded by John Russell-Murphy to you, on the left.

A. Yes.

Q. The answers drafted by Mr Thomson are at <MDR00041257>. In the bottom half of the page, the question was: "LENDING.

"HOW MANY CLIENTS HAVE WE LENT TO?"

Mr Thomson's worded his answer very particularly. He says:

"As at the beginning of May 2016 LCF has made 121 loans."

Just pausing with that, yesterday we saw Kerry's report of her conversation with Andy where she said, "Crucially, all 80 loans are to Spencer-related businesses", ie, they are funding their own operations. And you explain, in paragraph 72 of your witness statement -- again, we saw it yesterday -- that Mr Thomson told you at some point what he meant was, and these are your words, that there were 80 loans, not 80 borrowers. So, when he said, "As at the beginning of May 2016 LCF has made 121 loans", you would have understood, wouldn't you, he was wording it carefully, he wasn't saying 121 borrowers?

A. I mean, if I read this -- there is a chance I didn't, I'm afraid. But if I read that, yes, I -- my understanding of the difference between loans and borrowers at this stage or when it sort of developed into this question that we were looking for an answer on was -- I think I mentioned it yesterday. His explanation to Kerry and I was, because there's a clock and people have got between two and five years on a bond, he wanted to get them -- each individual loan out, and that it made sense to have a facility to do so because the cost of putting security up for each individual smaller loan would have been too big. I believe that was his --

Q. That's not what you said yesterday. His explanation was, "We have a facility agreement with a borrower and, basically, each advance under that facility agreement is a loan".

A. Yes, I think so.

Q. So you would have understood, when he was saying "LCF has made 121 loans", he wasn't saying LCF has got 121 borrowers?

A. Yes, I think so.

Q. Can we look at -- sorry, before we do that. On the rest of this page, under "ASSETS", at the bottom, it says: "WHAT ARE THE ASSETS HELD AND UNDERLYING SECURITY?" "The assets LCF currently hold as security is a mixture of property, land, contractual obligations, shares, warrants and corporate guarantees from listed companies.

"WHAT IS THEIR VALUE?"

"The current value (borrowing directors confirmed updated valuations as at the end of April 2016) of the assets pledged as security against LCF's loan book is circa £62 million (£14 million floating charge contractual value, £17.5 million property and £34.5 million development land). The security taken

against these assets is a mixture of corporate guarantees and fixed and floating charges." Do you remember Mark telling you that this was just the usual BS?

A. No, but quite likely.

Q. Can we look at <SUR00021720-0001>. Mark comments: "Just the usual bs I'm afraid."

And "bs" stands for "bullshit", doesn't it?

A. Yes, I think it does.

Q. That means things aren't true, doesn't it?

A. Yes, I believe that's what it means.

Q. When he's saying "the usual bs", he's saying that, usually, Andy is saying things that aren't true or can't be relied on?

A. I really hope, at some point today, you're going to show the email where the audit comes and I ask Andy --

Q. Oh, yes, don't worry, absolutely. Doing this chronologically, as I said.

A. Okay, it is just, Mr Robins, of course you ask questions and I answer them, and I accept that, but we have been dancing on a pin for six months. There were two massive audits which recognised everything Andy said in the previous statements as being true. And Mark here saying this is his usual BS, absolutely right, and of course that's why we were cynical, we want to press him to have this audit. Yes. The answer is yes. BS means bullshit and Mark is giving it me straight, which is what I appreciate from him.

Q. You weren't very happy with Andy's answers either, were you?

A. I'm not sure. I really can't recollect.

Q. Do you remember feeling angry or annoyed or disappointed?

A. No. Perhaps you can refresh my memory.

Q. <MDR00041316>. Your comment, we see at the top of the page, is "Grrrr", which I'm assuming is an expression of anger or disappointment. Would that be right?

A. Yes, sir.

Q. Can we look at what Mr Thomson said about one of his answers, please? It is <A5/26> at page 43. Internal page 171 through to internal page 172. On the left-hand page, if you take the top right box and the bottom right box and magnify them, if that is possible. We will start with this one. You can see the left-hand side, line 9. I took him to the document. Lines 12 to 13: "Question: ...

"Hi, I've put together some answers to the account managers questions ..."

"Do you remember being given some questions from the account managers?"

"Answer: The account managers put together questions on numerous occasions."

At 19, I said.

"Question: Can we look at the answers you drafted ... Do you see, at the bottom of the page, there is a heading 'Lending' and it says:

""How many clients have we lent to?'

"You understand, as a matter of ordinary English, that's obviously referring to the number of borrowers? It is asking how many borrowers LCF has lent to, isn't it?

"Answer: Yes, and I can see where you're going with it, Mr Robins. This also accompanied the conversation that I had with Surge. They were aware that we only had a few. But they were also aware that each drawdown was a loan in its own right.

"Question: Do you say that the answer you gave, 'As at the beginning of May 2016 LCF has made 121 loans', is an accurate and non-misleading answer to the question 'How many clients have we lent to?'

"Answer: Standing here now, reading that, I can see your point that that is misleading."

You knew, as you have confirmed, that 121 loans didn't mean 121 borrowers, so presumably you would agree with Mr Thomson that the words, "HOW MANY CLIENTS HAVE WE LENT TO? As at the beginning of May 2016 LCF has made 121 loans", are words which give a misleading impression?

A. Yes, I would.

Q. You knew that at the time?

A. I mean, Mr Robins, when it came out that they had 11 borrowers, that's what we told the members of the public. When they -- you know, however that did come out. This year, within a few months of 2016, that's the information we provided.

Q. You knew at the time that it was misleading information to give to members of the public?

A. I just can't sit here and condemn myself just to appease the pressure you're applying on me today for this. I notice Kobus -- I forgot about this chap -- is here as well.

Q. This is in Mr Thomson's answer, but he wasn't in my question.

A. Sorry.

Q. You would agree with Mr Thomson that the words at line 7 on the right, "As at the beginning of May 2016 LCF has made 121 loans", is not an accurate and non-misleading answer to the question, "HOW MANY CLIENTS HAVE WE LENT TO?"; you agree that it is misleading?

A. Yes.

Q. You knew that at the time?

A. I don't -- I believed the information we were told was true, genuinely, at the time.

Q. What, you believed that there weren't 121 borrowers? So at the top, on the right:

"Answer: ... They were aware that we only had a few."

That's correct, isn't it? "They" being Surge. You were aware they only had a few borrowers?

A. We started in November, you were talking about April. It is six months. And in that six-month period of time, Mr Robins, we are establishing facts and we are providing that "representage" of

those facts and we're reflecting it in the marketing documents as fast and as accurately as we can. There are times when there are -- look, when we find a problem, we ask the question, and then we come back and we try and clarify that question. I think it is patently unfair for me to sit here and be blamed for saying things which were untrue, which I was told. I know you don't like me to keep saying Lewis Silkin. I'm being told Lewis Silkin are saying, "You've got to say this and you've got to say that", the same Lewis Silkin that built the IMs. I'm sorry that makes everyone shake their head. I don't like it either. But it is a fact.

MR JUSTICE MILES: Mr Careless, I quite understand that this is a -- cross-examination is a very testing process, obviously, but if you could try to perhaps listen to the particular question that's being asked. Counsel has explained that he is going through the chronology, you are going to be given the opportunity to give answers in relation to the audits, and so on. But if you can just concentrate on the particular question which is being asked of you at the moment, I think it will speed things up and assist the clarity of your evidence as well.

A. I apologise. Understood, my Lord.

MR JUSTICE MILES: Please don't apologise. It is a very testing process. It is designed to be a testing process.

A. Yes.

MR JUSTICE MILES: But if you just listen to the question which is being asked.

MR ROBINS: You knew that there were not 121 borrowers, didn't you?

A. Yes, sir.

Q. You would agree that the words "HOW MANY CLIENTS HAVE WE LENT TO? As at the beginning of May LCF has made 121 loans", are intended to give the impression that there are 121 borrowers?

A. I'm not sure I can agree to that, but I can agree that it was 121 loans and not 121 company loans.

Q. Let me take you to the document I took Mr Thomson to. <MDR00042902>. It is an email from Jo Baldock to a member of the public called Mr Warman: "Further to your enquiry today I believe you requested some further information relating to your lending figures and current loan book.

"I have provided ... some of the common questions asked along with the answers.

"HOW MANY CLIENTS HAVE WE LENT TO?

"As at the beginning of May 2016 LCF has made 121 loans."

You would agree that any reasonable person reading that would think Jo was saying there are 121 borrowers? Mr Warman, reading that, is going to think, "Oh, 121 clients they have lent to", isn't he?

A. To be absolutely fair to Jo Baldock, she just -- it looks like she's copied and pasted what he said and presented it to the client. I don't think she's tried to mislead the client there.

Q. Was that my question?

A. No, sir. Yes, then, possibly, is the answer.

Q. A reasonable person would think, "Oh, they have got 121 borrowers"; yes?

A. Yes, possibly so, yes.

Q. Could we go back to <A5/26>, page 43, please. Page 172. You can see, in the middle of the page, I took Mr Thomson to that and I read it out and said, at the bottom:

"Question: So, do you accept that you were responsible for misrepresentations being made to prospective bondholders?"

Over the page, he responded:

"Answer: I accept that that is not absolutely accurate at all. Yes, we did make 121 individual loans. However, looking at the question, yes, I can do nothing but agree with you, Mr Robins.

"Question: Isn't it an answer that's deliberately crafted to mislead?"

"Answer: It is an answer crafted to create an impression.

"Question: To create a false impression, Mr Thomson?"

"Answer: Yes, we did have -- we did make 121 loans. We didn't have 121 clients. I can do nothing but agree with you, Mr Robins. It is incorrect."

You wouldn't disagree with what he said there, would you?

A. No, sir.

Q. Could we look at <SUR00028657-0001>, please. Here is a chat copied to you. This is June. You can see at 4:19:28, towards the bottom -- is it Neil Morrison?

A. It is Nick Morrison.

Q. He says:

"LCF have been in business since July 2012, we have 700 + investors on this current run of bonds (since January 2016) we have approx 120 loans out ..." That creates a misleading impression, that there are 120 borrowers, doesn't it?

A. Yes, it does.

Q. If you had seen this, you would have known that your salespeople were saying misleading things to members of the public?

A. If this happened, it was a very short period of time, and I wouldn't have -- it wouldn't have -- you know, I would have tried to ensure, to the best I could, during this early stage, that we tried to reflect the accuracy of what was going on. But yes is the answer. I notice Assetz Capital is up there, by the way. That's interesting, though, because you were saying yesterday there weren't any with a similar sort of interest rate. They had a better interest rate than LCF is my memory. They were a competitor.

Q. Did you know your salespeople were telling things to members of the public to give the impression there were 120 borrowers?

A. I would have expected and hoped that, as the information filtered down throughout the company, we would have then gone back and changed the website, we would have sent -- Kerry would have done all this. She would have gone back and said, "We need to reflect it all". So, at some point, yes, it looks like there is an overlap where we are continuing to say things we have been told which aren't necessarily true.

Q. And which you knew weren't true?

A. Yes.

Q. Can we look at <SUR00028670-0001>, please. There's another one, Neil Smith, copied to you. At 5:55:13, he says:

"I'm afraid that I don't have figures on previous bonds, but this series of bonds we have 120 loans out totalling £11 million ..."

You knew that your members of staff were saying misleading things like this to members of the public, didn't you?

A. I mean, I kind of feel like I'm being slightly bullied into agreeing something, which I don't quite, deep down --

Q. Do you think maybe you didn't read this?

A. No, I'm not saying that. I'm saying I feel quite bullied to say things. He's saying things that we have been told as facts. We have 120 loans out. The 11 million, I presume, is a fact he's been told by whoever is the manager of that bond, Jo or someone else. Assets over 60 million I also presume is something we have been told as well. We are reflecting the information we are told. It is not within our gift, Mr Robins --

Q. So you say it if you are told it, even if you know it is untrue. Is that your evidence?

A. No, it is not my evidence. It is not my evidence. We are trying our best effort to do -- to try and professionalise and do a proper job, and I -- you know, I can see the point you're making, and of course this is a period -- I would be very interested to know how long this managed to eke out. Because you have to remember, we are growing, there's hundreds of things -- talking about -- spoke to 100,000 people. It does take time for information to percolate. I'm sorry, you know, if we have not reflected it quick enough or in any way, but Neil, Surge, myself, we weren't purposely trying to mislead people in this way.

Q. Do you think, in June 2016, you were still paying close attention to the chat transcripts?

A. I could well have been. There were a lot. I wouldn't have read all of them, of course, but yes, possibly.

Q. If we look at <SUR00028672-0001>, you forward it to George saying:

"Is it me or is this a bit sloppy?"

I think, but tell me if I'm wrong, what you are commenting on is the line we were just looking at, where it says:

"i'm afraid that i don't have figures on previous bonds, but thisseries of bonds we have 120 loans out ..."

He's forgotten to capitalise his Is. There are too many typos, aren't there? That's why it's sloppy?

A. Oh, yes, it's not great, is it? I mean, I'm no brilliant guy when it comes to grammar and typos, but I'm trying to professionalise the company and, yes, that does look a bit of a shambles to me.

Q. Do you think that's what you were commenting on when you said it was a bit sloppy?

A. I don't know. I presume so.

Q. Can we look at <SUR00028677-0001>. George says at the top:

"Yes, too many typos, I will talk to him." It does look as though you were commenting on the line about 120 loans, doesn't it?

A. I presume -- I think I'm talking -- I think I might be referring to the typos, generally.

Q. In that line and elsewhere?

A. Yes, sir.

Q. Can we look at <SUR00030041-0001>. This is July, copied to you, and at 1:30:55, which must be on the next page: "We currently have 120 loans ..."

You knew your salespeople were still saying this in July?

A. Yes, sir.

Q. If we look at <SUR00031894-0001>, please.

A. Actually, Mr Robins, can I correct my previous answer for a minute? We would have had thousands of these, and I appreciate you have shown me quite a few, actually, but I think we have to be very careful we don't take what would have been a small proportion, even over the last two days, out of the grand scheme of things. There were thousands. We are talking -- we spoke to 400,000 people in three and a half --

Q. Here is the thing: they were working from scripts, weren't they?

A. Yes, sir, they were.

Q. So you can take a sample from any week in time and know they are representative of what's in the script, can't you?

A. Yes.

Q. Can we look at <SUR00032040-0001>, please. This is another one from July. 11:44:20, there's a reference to 120 loans out. Let's look at <SUR000 --

A. Are these all Neil Smith, Mr Robins?

Q. No. We can look at <SUR00035678-0001>. This is now getting on for the middle of August. Nick Morrison. 02:40:

"There are approximately 120 loans currently issued."

This became part of the script, didn't it?

A. Mr Robins, could you please go back to the previous one that you just showed me, Neil Smith? I think I may have spotted ...

Q. <SUR00032040-0001>.

A. So, just taking this into a little bit of context, I accept what you have just said, that they are reading from the script and they have said these things which are incorrect at this stage, when we previously know, and perhaps I've commented on the typos or something here. The script itself, I'm just reading the rest of it. Apart from the grammar and the typo, you know: "Pls answer the Q?"

"I am afraid that I am unable to gauge that risks, i can only tell you the facts. Then you can make an informed decision.

"What protection does the FSCS give ... "... We do not use the FSCS."

It was a script. When it came to these sort of chats, which we scrapped for this very reason, because it is too difficult to get solid information out without AMs crossing the line, like they might do. I'm looking at the dates here. Obviously, we are much later into 2016. Are you telling me -- I'm just trying to gauge the date on when you said previously that I was told that information from Andy? Was it around this date then or was it much before? What I'm trying to suggest is that, if the information we were told, which we believed to then be wrong, I would have expected us to have a sort of -- corrected it or asked Kobus, who is mentioned in there, who was the chap who we would have gone to, to correct it. So, somewhere here in this period of time between the moment we knew -- and is this days, is it months, or have I got this completely wrong?

Q. You gave us your explanation that when Andy said 80 loans, he explained to you he meant -- sorry, 80 loans not 80 borrowers and that there was a facility agreement and each drawdown was a loan. Are you now thinking that you are going to have to retract the entirety of the evidence that you have given on that?

A. No, absolutely not. I mean, I'm sorry, I'm just trying to -- we kind of -- we sort of cantered through that. I'm just trying to -- you know, it is a long time ago. I'm trying to line things up. I'm sorry. Okay.

Q. You knew 120 loans didn't mean 120 borrowers, didn't you?

A. Yes, sir.

Q. You knew 120 loans in messages like this to the public created a misleading impression and would encourage people to think that there were 120 borrowers, didn't you?

A. It was a script. The script was provided by the client. And we would have read it. But, yes, I -- but I would have made moves -- I wouldn't have, but someone in the company would have made moves to correct that in everything, brochures, websites, there is a lot to do when things change.

Q. You didn't care if your salespeople were giving misleading information to members of the public so long as it increased conversions, did you?

A. I just don't agree with that.

Q. You encouraged a culture in which people had no regard for the truth, provided that you all made a shitload of money?

A. I drive a culture, because I'm an entrepreneur, which makes things happen, but I also surround myself with professionals, I rely on professionals, because, in the most part, I believe that they are, you know, checking the things out. But I don't think it is fair to conflate my commercial drive with me being a fraudster.

Q. <SUR00022341-0001>. In the middle of the page, you say to Ryan:

"I've noticed it's what a CMO does. And you're doing it well."

Above that, he replies saying:

"Thanks a lot. I just want to make sure we all make a shitload of money."

You say:

"That's why."

The culture you encouraged was one in which making a shitload of money took precedence over everything else, including the truth, isn't it?

A. Ryan Holdaway: chief marketing officer; wannabe entrepreneur; great young man. Mother was an investor in LCF, which is why we saw all of the documents. I'm sorry for encouraging drive in my chief marketing officer, but we are entrepreneurs, we are building businesses, I'm afraid that's the purpose of a business, to make money. But I think to conflate those two things is just -- you know, it's -- I appreciate I am the one here answering the question, but I just don't see that as representative, you know, of the -- I just think -- it is just me trying to encourage him and drive him to be, you know, a sort of driven young man.

Q. Could we look at <MDR00047328>, please. This is from Jo to sales@lcaf:

"John has spoken with Andy this morning who has confirmed that the following figures are accurate and correct as of today:

"Security held = £35 million."

That's gone down from the figure of 62 million just a few weeks earlier:

"Loan book £15 million."

So that's gone up from the figure of 9 million just a few weeks earlier. And I can tell you the scripts were updated with the new figures. We have just seen some of them. You noticed, surely, that the facts seemed to change whenever Mr Thomson opened his mouth?

A. I'm afraid I actually can't remember. I'm not sure -- I can't remember this. I'm not -- you know, I -- so you're saying the 62 million one was just prior to this, Mr Robins?

Q. It was a few weeks earlier.

MR JUSTICE MILES: 18 May.

MR ROBINS: 18 May.

A. Right, okay. I mean, could the answer be that things do change in a business and perhaps security has come and gone, as opposed to, you know, he's just making it up? Sorry, I know that's a question rhetorically. You know -- I mean, it wouldn't have set an alarm bell off, honestly. You know, I'm more interested that there is security and that he's now using PwC at this stage, knowing that, at some point, it's going to flush everything out and we'll have -- if PwC comes back and says there's no security, this wouldn't continue because no-one would put any money in, Mr Robins, and indeed we wouldn't be able to work with it. I think perhaps this number may fluctuate because things -- I presume things are changing on his end that we just don't see sight of with regards to security.

Q. What you were interested in is ensuring that July's numbers would beat June's and that August's would beat July's?

A. Yes, sir.

Q. You thought month-on-month growth was an absolute topline figure that you must work on growing above all else, didn't you?

A. Yes, sir.

MR ROBINS: My Lord, I don't know if that's a convenient moment for the shorthand writer's break.

MR JUSTICE MILES: Yes, it is. Thank you.

(11.42 am)

(A short break)

(11.48 am)

MR ROBINS: Mr Careless, I am going to ask you some questions about Mr Thomson. Specifically, what you and your team thought about Mr Thomson. First, you and those around you thought that he was lazy and inefficient, didn't you?

A. Some people would have held that opinion, yes.

Q. For example, you knew that he failed to return the signed contract, even though you and Kerry chased him repeatedly?

A. Yes.

Q. It was your experience, and that of those around you, that he never really seemed to get anything done?

A. I think -- there were certain people within Surge who didn't get on with Andy particularly well, and I would suggest that might be JRM, Kerry and Jo Baldock, but I think that was more of a personality clash that he had, especially with sort of female members of my team who held positions of responsibility.

Q. The question I'm asking at the moment is based more on your experience of your own interactions with him.

A. Yes.

Q. If we look at <SUR00002141-0001>, we can see, about a third of the way down, Kerry saying to Steve: "Andy has not returned a copy to me with his signature as yet. I have chased."

If we look at <SUR00129432-0001>, Steve emails you: "Hi PC. List of things you have asked me to deal with."

About halfway down:

"Ensure that LCF contract with Surge is signed by Andy Thomson."

<SUR00002675-0001>.

A. Sorry, what was the date of that, Mr Robins? Was this the first one?

Q. Yes, this is --

A. Okay, yes, with you.

Q. Kerry says -- this is to you:

"Attached is an agenda for our 2 pm with Spencer and Andy ... it is for internal use only, I will not be sending it to them -- there are contentious items on it ..."

The attachment is <SUR00002676-0001>. If you look at item 6:

"Andrew signature on introducer agreement. I requested he bring a hard copy today as this is now very overdue ..."

And then 8:

"Would they like a welcome pack? Requested info from Andy first on 5th August he didn't provide, not sure if they want one?"

9:

"CVs so I can add to the biogs. When Andy has finished writing them.

"Possibly best offline with Andy (because lots to discuss and don't need to drag everyone into it) ..."
And she has some further items.

If we look at <EB0006648>.

MR JUSTICE MILES: Can I just ask a question about that document.

MR ROBINS: <SUR00002676-0001>.

MR JUSTICE MILES: Do you remember meeting Mr Golding and Mr Thomson at that time to discuss these things?

A. Possibly, yes, early on, 2015, yes, I believe so.

MR JUSTICE MILES: That was about LCF business, wasn't it?

A. Yes, sir.

MR JUSTICE MILES: Thank you.

MR ROBINS: <EB0006648>, please. In the middle of the page, Kerry is emailing Spencer:

"As discussed, I have been waiting for the case studies for some time. I had a look back through my emails and can see I first requested this on 29 July. See forward."

She attaches an email. I don't want to take up a lot of time unnecessarily on this. Maybe you didn't like the slightly pejorative term "lazy". Let me rephrase it. Your experience of Mr Thomson was that he was inefficient or ineffective at getting things done?

A. Yes. I think, from the information I was getting, yes.

Q. We saw the email on Monday where Kerry says: "Ultimately, I don't think Spencer is pissed off with us. I think he's pissed off with Andy. He's asked me to keep the pressure on Andy and 'chase him harder'." That's the sort of experience that you encountered at the time, isn't it?

A. Yeah, I mean, I think it's unfair to -- for me to say, on all occasions, he was ineffective or lazy. But I had quite a hard-charging team who would have expected things to move a lot quicker, and we had other clients who were -- another client, I beg your pardon, who was much faster at replying, and we were trying to get things done. So, you know, we were moving at a bit of a lick. So, yeah, definitely would have appreciated him responding faster.

Q. A lot of people around you didn't really trust Andy Thomson, did they?

A. No, I think that's fair to say, at times.

Q. Well, and sometimes someone like Mark Partridge could express quite strong views about Mr Thomson and the extent to which he distrusted him, couldn't he?

A. Yes, and, as we have seen previously, and as I have said to you previously, Mr Robins, Mark Partridge could distrust the Dalai Lama, he is a most cynical man, and I love him for that, but I have to take it with some caution because, otherwise, I would never do business with anybody.

Q. He wasn't the only one who had a lack of trust in Andy Thomson, was he?

A. Oh, no.

Q. You and some of those around you also thought Mr Thomson could be a bit difficult or bloody minded?

A. Yes.

Q. If we look at <SUR00003797-0001>, we see, at the top, Kerry saying to John, copying to you:

"Let's put it down to Andy being Andy and see if it actually gets raised with Spencer tomorrow." You understood her to be referring to the fact that he could be difficult in his interactions with people around you?

A. Yes.

Q. <SUR00005315-0001>. John Russell-Murphy says to you: "We know he's hard work ..."

That's a view you shared with John, isn't it?

A. Yes.

Q. Can we look at <SUR00132806-0001>. We saw this one earlier. John says to Mark:

"It's very useful. Andy is being quite challenging at the moment."

That's something you understood as a reference to Andy being difficult in his interpersonal interactions?

A. Yes.

Q. You mentioned, I think a moment ago, one of the problems was he didn't provide information when requested, did he?

A. No, not as quick as we might like.

Q. But you also had the experience that he was not co-operative or collaborative, didn't you?

A. At times, I think that's fair to say.

Q. Let's look at <SUR00007101-0001>. The final paragraph in Kerry's email to you:

"Andy will not get over his issues with me overnight but through me being helpful and efficient he will soon see that he doesn't need to treat me as the enemy. From time to time I need to communicate with Andy and I feel very strongly that this should just be business as usual and should not be avoided."

The difficulties between Kerry and Andy were quite extreme, weren't they?

A. Yes. I think, at risk of besmirching a person's character who is not here, I believe that Andy's issue was particularly with women in my company and, at the time, Kerry, of course, my business partner, was very -- you know, she was my business partner and she did all the detail, and he particularly didn't hit it off with her. Jo Baldock is another one who ran the account management team. You know, I think it was fairly apparent within the company as a sort of running theme between ourselves on that basis.

Q. In communications that you saw behind Andy Thomson's back, people around you, people you worked closely with, expressed some very strong views about him, didn't they?

A. Yes.

Q. For example, Kerry sent you WhatsApps and emails in which she referred to him as a "twat", didn't she?

A. Yes.

Q. John Russell-Murphy and Jo might say in an email that he was a "cock"?

A. Yes.

Q. If I showed you an email in which someone said Andy is being a "dick", you wouldn't be surprised?

A. No, I would not.

Q. You, yourself, thought that he had zero people skills, didn't you?

A. Yes, quite likely, yes.

Q. Can we look at <SUR00019490-0001>. Andy sent a message. You forward it to George Carlo with the comment: "Zero people skills."

That's what you thought about him at the time, isn't it?

A. Yes.

Q. You also thought he was the sort of person who could act irresponsibly?

A. Yes.

Q. Could we go back to <C2/3>, please. I'm afraid I have, again, failed to write down the page number. We are looking for paragraph 100 in the witness statement. This is the witness statement, Mr Careless, that I have taken you to a number of times before. We looked at your signature yesterday and you confirmed that you read the statement of truth and understood that you could be penalised if you signed without an honest belief in the truth. [Internal page 20]. At paragraph 100, you say: "LCF was doing really well and had overtaken Blackmore ... this happened throughout 2016. Pat noticed that Blackmore was lagging behind LCF in terms of investment and asked me to introduce him to Andy, thinking that Andy might help Blackmore improve. I agreed because I wanted Blackmore to do better as that would benefit Surge. If Blackmore could become a more attractive investment, then it would increase its investment from £1 million a month to where LCF was at £5-6 million a month. This would have increased Surge's revenues. At first, Andy was hesitant. He saw Blackmore as competition, even though it was in a different business area. I convinced Andy that if Blackmore improved, it could benefit Surge and it wouldn't affect LCF's investment. Blackmore didn't have the funds to pay Andy, so I decided Surge would cover his fees. The idea was simple: if Surge

spent money to get Andy's expertise and Blackmore started doing as well as LCF, Surge would quickly earn back its investment. We didn't put this deal in writing as it didn't seem necessary.

"Surge paid for Andy to guide Pat and help Blackmore become more professional. Pat told me that Andy did this through face-to-face meetings, calls and emails, the intention of which was to improve the quality of Blackmore and bring it up to the level that LCF was at. My part was to cover the costs, while Andy provided the expertise. The scope of the work I wanted Andy to do was wide -- it was whatever could have benefited the growth of Blackmore."

Now, it is inconceivable, isn't it, that you would have wanted this inefficient, ineffective, difficult, untrustworthy man -- a "twat", a "cock", a "dick" -- with "zero people skills", the sort of person who could act irresponsibly -- to work for your other client, to improve them, to lend his expertise? This is nonsense, isn't it?

A. It's not nonsense. I think -- I understand where you're coming from now. I mean, you can be good at your job and still be a dick, and I think everyone here may have met people who are very good at their job, but outside of that, they are dicks. And I'm sad to say Andy is one of those.

He was smart enough to engage PricewaterhouseCoopers, smart enough to get Lewis Silkin, smart enough to find Ian Watkins, a barrister with ten years' experience of working at the regulator to set his IMs up and running. He was smart enough to listen to those types of advice to upgrade his business. He was a dick. And I'm sorry to say, to predominantly women, he was a dick. And he was lazy at times and we had to chase him. But I think it is unfair to say that he was totally ineffective because, as we have seen, he has gone out of his way -- I presume it is not easy to deal with PwC, EY, Lewis Silkin, you have to have -- but it is unfair to sort of say, professionally, he's totally inept just because he's a dick.

Q. So, is your evidence that, in mid 2016, he had shown he could deal with EY?

A. Sorry, sir, could you say that again?

Q. Is your evidence that, in mid 2016, he had shown you he could deal with EY?

A. Well, he had shown me he could deal with -- no, perhaps not mid 2016.

Q. What about PwC? Had he shown you, by mid 2016, he could deal with PwC?

A. I don't know if he told me he could deal with them but I know it was his endeavour to engage with them to do that. Lewis Silkin, yes, I knew them from 2016.

Q. LCF's growth had been due to Surge, not Mr Thomson. You and Kerry had transformed the sales and marketing, not Mr Thomson. You knew that he wasn't responsible for the growth of LCF's bond sales. It wasn't down to him, was it? It was down to you. The only useful information he could ever give to anybody else is, "Let me introduce you to Paul Careless"?

A. Well, that's a nice compliment, but, sadly, it's not true. Unfortunately, great marketing will not overcome poor product, and I mentioned this a couple of days ago. But, essentially, you need to have a product which is high enough calibre to attract funds. No systems or technology that I can put in place or marketing that I can do will overcome a poor product. To work, a product needs to be good. You know, that's why the best barristers get paid the best money. Because they are better. It is not because they are better at the marketing --

Q. When you say "good", are you referring to what your salespeople said to members of the public about LCF's interest rates, for example?

A. Perhaps you can --

Q. Or about interest being paid quarterly or about the terms of the bonds, the length of each bond? Are you referring to that sort of thing when you talk about a product being good?

A. Well, you need to position a product, as a marketing agency, to show its, sort of, best side. I mean, it's what -- you know --

Q. Blackmore's bond was paying a lot less than LCF's bond, wasn't it? That's one of the reasons LCF was doing better?

A. The main reason that LCF -- so Blackmore and LCF. Blackmore obviously we were working with before. Blackmore was a property business. Property was very -- and probably still is -- highly competitive. The choice was enormous. SME lending was just starting. The boom had just started. He was riding a wave. But the reason people put money into LCF and not Blackmore, Mr Robins, was because LCF was a better product. It had better security. I've mentioned this from the day I met -- I was interviewed with the SFO to the times I have spoken to everyone. It is the security which is, first and foremost, on an investor's mind, not necessarily the narrative, because -- and their security was better. He was also regulated. And I just believed, you know, they were a better product.

Q. Can we look at <SUR00026166-0001>, please. This is the first of two documents that I'm going to show you. This is the first invoice from Mr Thomson's company, Media GPS, to Surge for professional services for a very specific amount, £8,909.48.

The second document is <SUR00029112-0001>. As we saw, that invoice was for May, so we need to look at the row for May. In the column headed "Gross received funds", that's a figure, on the right-hand half of the page, of £1,781,895. Half a per cent of that is the figure that we just saw on the invoice, £8,909.48. You understood at the time, didn't you, that Mr Thomson was rendering invoices to Surge for a sum equal to half a per cent of LCF's receipts from new bondholders in the previous month?

A. Yes.

Q. So you understood it wasn't a daily rate for consultancy?

A. Correct.

Q. It wasn't an hourly rate for consultancy?

A. Yes.

Q. You agree it was nothing to do with Blackmore's bond sales?

A. Yes.

Q. If, as you say, Mr Thomson had been consulting for Blackmore, then I can see it might make sense to pay him a percentage of Blackmore's revenue or Blackmore's profits, but paying him half a per cent of LCF's new monies in the previous month is completely nonsensical, isn't it?

A. Why?

Q. Well, that's my question.

A. Sorry.

Q. It's completely nonsensical. If you say it is not, that's your evidence, and my Lord will make of it what his Lordship will in the judgment in due course, but my question is, it's completely nonsensical, isn't it?

A. No, I don't think it is.

Q. We have looked at your interview in court by Mr Shaw in January. If we go to that again, <M1/9> at page 21, Mr Shaw asked you in line 7:

"Question: Did Blackmore know you were engaging Andy Thomson as [a] consultant?

"Answer: Yes, it was at their request.

"Question: Was there a written agreement in place? "Answer: Between us and Blackmore, yes.

"Question: No, between you and Andy Thomson? "Answer: No.

"Question: How much did you pay him?

"Answer: I cannot recall the exact amount. "Question: Approximately?

"Answer: I still could not give you -- hundreds of thousands.

"Question: Hundreds of thousands?

"Answer: Yes, it was a couple of hundred grand I think for it. It was a considerable amount of work ..."

You didn't tell Mr Shaw that it was half a per cent of new money into LCF in the previous month, did you?

A. No.

Q. Were you hoping we wouldn't discover that it was half a per cent of new money into LCF in the previous month?

A. No.

Q. You don't explain in your witness statement, do you, that it was half a per cent of money into LCF in the previous month?

A. No.

Q. This is something that you were hoping we wouldn't discover, isn't it?

A. No.

Q. So the man who your accountant had thought was involved in what might be a Ponzi scheme is asking for half a per cent of new money into the company in the previous month and you say okay?

A. No, it wasn't like that at all. The email which you may be bringing up shortly is -- I was working with Blackmore. They were doing 1 million a month. LCF was doing 5 million a month. LCF got their FCA regulation and Pat and Phil had failed to do it. They were engaging a very expensive City law firm which was costing them hundreds of thousands of pounds. If I could have improved and upgraded Blackmore, then, with the marketing I was doing, I would have attracted millions more inflows into their product, which would have been good for them and, of course, good for Surge. So I took it upon

myself to try and get Andy to help unstick Blackmore, and although I've said previously, you know, he was at times difficult and a dick, or people may have said that, he'd also managed to get his regulation, he'd also managed to engage higher-quality third parties to do his audits, and all the other things you need to attract more inflows, and I was hoping he might do that for Blackmore.

Q. That's not true, is it?

A. It is true.

Q. All right. Mr Shaw said to you:

"Question: That fee would have been invoiced by Surge to Blackmore?

"Answer: Yes.

"Question: It is all quite confusing, but at the beginning you said that InfoConnection had the business with Blackmore?

"Answer: Yes.

"Question: Surge was set up to deal with London Capital and Finance?

"Answer: No. Surge was the successor to InfoConnection, so we set up a new entity to deal with all clients so Surge did not just deal with London Capital and Finance, it dealt with Blackmore too.

"Question: Do you [have] any invoices relating to Mr Thomson's consultancy fees?

"Answer: With Blackmore and with Andy?

"Question: Yes.

"Answer: Blackmore's were £25 million. "Question: I do not want to see your invoices to Blackmore unless there is a line of them saying 'Andy Thomson's consultancy'?

"Answer: There will be something on it. It will not say 'Andy Thomson's consultancy' but it will say 'assistance'."

You haven't disclosed any invoices from Surge passing on the cost of Andy Thomson's consulting to Blackmore, have you?

A. I'm not sure. There is an email where I set out quite clearly this deal between Andy and Pat, back in, you know, 2016. It's there. The proposal, what I'm pitching. I knew this would come up and I asked Pat if he would be a witness to explain. I mean, Blackmore ended up putting in an application, thanks to the work Andy did, which sadly failed. But I just -- sorry, your question is that I'm saying something which is wrong here?

Q. You haven't disclosed the invoices you told Mr Shaw existed where Surge is invoicing Blackmore, passing on the cost of Andy Thomson's consulting?

A. Right.

Q. Have you?

A. I don't know. I would have passed on everything I was asked to pass on.

Q. Do you say you did recharge Blackmore for the cost of Andy Thomson's consultancy?

A. I don't believe I did. I think the deal was that I would just cover it until such time as they made their application, or something along those lines. I mean, it was a long time ago and I was trying to get Blackmore to the standard LCF was at, which was a regulated --

Q. You told Mr Shaw, four years ago, that the cost was invoiced by Surge to Blackmore. Are you saying that isn't correct?

A. I actually -- it could well be incorrect, and if it was, it's not me trying to, you know, mislead you. It's because, you know, that was what I thought. So, are you suggesting I'm saying that Surge -- sorry, we invoiced Blackmore for Andy?

Q. I'm trying to understand your evidence. You told Mr Shaw that Surge invoiced Blackmore for Andy, but you seem to be saying now it didn't.

A. Well, if I have it incorrect, it would be an inaccuracy for which I apologise. I didn't try to mislead you, Mr Shaw, and I'm sorry if that's the case. But I'd set a deal out. I put it on email. I know it is not a contract as such, in the sort of legal sense, but I wanted my other clients to get the same level of inflows as LCF, and that required regulatory sort of expansion and work, and they were already spending too much money with Patton Squire & Boggs and said they weren't getting anywhere and I said, "Well, I will unstick it for you".

Q. We have seen the first email for almost 9,000. The second is <SUR00029678-0001>. This is £13,100 for June. I just want to show you what Mr Thomson said to you about it. If we look at <SUR00029677-0001>, he says, after some sort of chitchat:

"I've attached the Media GPS invoice for June and have based it on the funds through the account ..."
You knew he was talking about the LCF account?

A. Yes, he's talking about half of one per cent.

Q. <SUR00029693-0001>. He says in the third paragraph: "Re the invoice, I based it on cash through the account for the month so it mirrors what we pay in comms for the prior month, this way I'm invoicing for what has actually been paid for the prior month ...". Given that you were charging 25 per cent, half a per cent of money into LCF was actually 2 per cent of your commissions, wasn't it?

A. Yes, on that basis, yes.

Q. So your evidence is that Andy agreed to help his main competitor, Blackmore, even though he was reluctant, because you agreed to pay him 2 per cent of the commission that his company LCF paid to you; is that correct?

A. No, it's not correct. My evidence is, for a short period of time -- I think it was less than a year -- I wanted my fastest-growing client to help my other client. They weren't direct competitors either, Mr Robins. One was in property and the other one was in SME lending. Although they were bonds, of course, what they were doing was different. I wanted his help. Despite all of the other sort of things about him, he was motoring, he was driving it forward. He had a banking background. He had unstuck a lot of the things we were after, namely, high-quality third parties that we, and indeed the bondholders, could rely on. I was impressed by that. I know that sort of flies in the face of people calling him sort of names, but --

Q. Let's be precise. When you talk about "high-quality third parties", can you tell us who you mean?

A. Well, I mean PwC was the first one he was discussing, which I thought was going to be a game changer for him.

Q. So you thought, because he's discussing PwC, he's suitably qualified to consult for Blackmore for 2 per cent of your commission?

A. For a short period of time, I was happy to pay him. He'd just got his regulation with the regulator. He was also very good with the regulator, in my view. I didn't have -- and Blackmore were looking to follow his path. I presume you won't be showing that email.

Q. Can we look at -- I think it is mentioned in our opening submissions, Mr Careless. Can we look at <SUR00134872-0001>. This is the next invoice, £18,109. Again, you would accept this is a quarter -- sorry, half a per cent of the money that went into LCF in June 2016, equivalent to 2 per cent of Surge's commission from LCF for that month?

A. Yes, I do:

Q. One of the features of this is that, as you hit your ever-increasing targets, the amount of money coming into LCF each month would increase, the commissions would increase, the amount of money you were paying to Mr Thomson would also increase, wouldn't it?

A. Yes, it was a negotiation for him to help. It was a short-term thing so that I could help out Blackmore. I mean, it's just -- you know, I just don't see it as -- I know now, in hindsight, it looks terrible that I paid Andy because you're pointing it out, but he did a job and it was set out in terms on an email. Precisely what I just said I asked him to do.

Q. You have given him an economic incentive to maximise your commissions, haven't you?

A. An economic --

Q. As you get more commissions, he gets more on his Media GPS invoices?

A. I was trying to do it in a way -- he negotiated it with me in an office. I was trying to do it in a way which, you know, sort of kept us aligned so I wasn't paying too much or too little, and I was happy to accommodate that. You have to look at the end result. What I am trying to do -- you talk about incentive. I am trying to get Blackmore, which was doing a million a month, to do 5 million a month. The outcome of that was I would make an extra 20 per cent, 800,000 a month --

Q. But you didn't tie it to any of that, did you? You didn't tie it to anything to do with Blackmore's results or Blackmore's commission paid to Surge?

A. No.

Q. You gave him an economic incentive in maximising your commission, didn't you?

A. Yes.

Q. Had he --

A. I just don't see anything wrong with that.

Q. Had he expressed some concern about the size of the commissions he was paying to Surge and you thought, "Well, if I give him a stake in maximising Surge's commissions, then we can stop him from talking about trying to reduce them"?

A. It sounds very much like you're retrofitting the narrative to fit the facts. It's just not the case. It is exactly as I set out in my statement. It is in the email contract thing I wrote in 2016. I know it is not a contract, the email. They were the terms. I needed that help. In fact, if you look at what happened, Blackmore did submit to the regulator the thing that Andy helped him with, and that was what stopped -- that then led to Blackmore stopping their inflows for a year, which, you know, probably was the marker that condemned them.

Q. You accept that Surge paid the three invoices we have just looked at?

A. Yes, sir.

Q. You get the invoice, you send it to Steve, you pay it immediately?

A. I presume so, yes.

Q. Could we look at the next invoice, <MDR00056834>. It is now over £21,000 a month. You agree this invoice, like the others, says nothing about Blackmore?

A. No, I agree that, yes.

Q. The next one, <MDR00060435>. This is now £17,500. The next one, <MDR00224086>, £21,000. You were paying all this money to a man who you and Kerry thought was unreliable and who said things that couldn't be taken seriously?

A. I mean, I sort of tried to explain this to you earlier. I do accept that he didn't have a great deal of people skills and perhaps he wasn't very likable as an individual. I do accept that. But I think he was also effective. I mean, he was -- he managed to get the regulation. He managed to upgrade things. He was pushing on. Pat and Phil were very good, but they just weren't -- they didn't -- they just weren't as good. I can say things about Andy, but I thought, operationally, he was achieving things they just weren't doing.

Q. Can we look at <SUR00136611-0001>. This is Kerry's email to you at the end of November 2016. It is about the payment of interest. In the second paragraph, she says:

"I know you can't take much of what he says seriously ..."

You and Kerry did view him as someone who said things that you couldn't take seriously, you didn't know what to trust?

A. I mean, obviously, you can ask this of Kerry next week, but it's -- you know, for his flaws, of which he had many -- don't we all? -- he was building a significant business. He had ambitions to build something far greater than what LCF was. Obviously, it was an enormous failure. But I don't accept, and I cannot accept, that just because his relationship with Kerry and indeed others in the company was fractured -- you know, fractious, that he wasn't doing a good job. I did. I believed he was building a proper, significant business and we were tying ourselves along with them.

Q. Can we look at the next invoice, <MDR00067320>. This is £23,494. So, by this point, just to tally it up, Surge has paid over £123,000 to Mr Thomson. Your evidence is that that was for helping Blackmore; yes?

A. It's not my evidence, it is what happened.

Q. Can we look at <SUR00057304-0001>, please. Page 2 first. At the bottom, we can see that Katie Maddock has sent Jo Baldock, copying Andy Thomson, an official statement regarding interest:

"Attached is our official statement, Andy has agreed that this can be added as a link to the taxation section on the FAQs and if needed as a link to the home page." Above that, Jo says:

"Thanks ...

"Why is this signed Michael Thomson? Also this statement is not going to be sufficient, we require a copy of the official notification from HMRC as our word is not enough for the clients as you have experienced on the phone."

Then up the previous page, at the bottom, Mr Thomson emails Jo Baldock to say:

"I am Michael Thomson as detailed in all our docs ...

"Re our statement I don't want to release the letter from HMRC so our confirmation will have to be sufficient I'm afraid. We have gone to great pains to get this confirmation and I don't want to lose it online for our competitors to use. HMRC have confirmed they will be investigating companies that pay gross and I don't want to give our competitors any assistance." On the left-hand side, we can see that Jo forwards that to Kerry and you. You say:

"Tone is poor."

Ryan comments:

"'our competitors', ie Blackmore."

Mr Thomson didn't want to give Blackmore any assistance, did he?

A. Well, I mean, Ryan wouldn't have had sight of this deal. He was in the marketing. So I wouldn't read too much into that, Mr Robins.

Q. I'm not asking about Ryan. I'm talking about Mr Thomson's comments. He didn't want to give his competitors any assistance.

A. Right.

Q. You knew that, didn't you?

A. No, I mean, there was definitely friction with him not wanting to help Blackmore early on, but --

Q. But, by this point, you have paid him £123,000, which you say was for helping Blackmore?

A. This isn't him saying, "I'm not helping Blackmore". He met up with Pat, they went through it together, he helped put the application in. He introduced him to his advisers. It didn't work. I stopped paying him. That's it. I mean, all of this, you know, I don't like him, why would I do it, he's saying things don't help my competitors, it is an inference, of course, but it doesn't reflect what happened.

What happened was, I had a fast-growing client who was doing very well, who was engaging the very best people at the time -- I know that more came later -- and I had another client who didn't have those skills, and I tried to get them to upgrade them for the benefit of them, but, of course, ultimately the benefit of Surge because we would have made significantly more money if my other client was as good. LCF was developing itself into being the best bond in the market and at one point I genuinely believed it to be that.

Q. Can we look at <MDR00067769>, please. At the top of the page, Kerry emails Jo Baldock, you and John, and she says:

"My dislike for Andy is increasing. It's not just that he doesn't want to aid competitors, it is specifically that he doesn't want to help me/Blackmore on this issue."

The answers you have just given us are untrue, aren't they?

A. No, Mr Robins, the answers I have given you are true. I would put more weight on that, on "help me". As I have said to you previously, his -- Kerry and Andy rubbed each other up the wrong way, as indeed he did with Jo. You know, when you're the CEO of the company, you are constantly dealing with sort of individuals competing and sometimes not very nicely to -- you know, to say poor things about each other and, you know --

Q. You understood that Kerry wanted this information so that Blackmore could use it?

A. Yes.

Q. By this point, you had paid Andy Thomson over £123,000?

A. Yes.

Q. Why couldn't you have gone to him to say, "Your behaviour is outrageous. She wants it to help Blackmore. We have paid you over £123,000 from our commissions for doing this. Now please stop being so silly and hand over the document". Why couldn't you have said that?

A. Well, I mean, I suppose I could have said that. I was aware --

Q. The reason you couldn't have said that is because you weren't paying him to help Blackmore, were you?

A. I'm afraid that just flies in the face of the facts. He did help Blackmore. They put their application in. He worked as a consultant and I stopped it at some point when -- I think their application went in. I know you want to draw some more nefarious inference from it, but I'm sad to tell you it is me trying to get one of my clients to help the other. It is as straightforward as that.

Q. The next invoice is <MDR00224088>. Almost £13,000. Then let me show you one more, <SUR00063737-0001>. This one is over £29,000. Doing the reverse engineering from the half a per cent, you would agree that this invoice is a consequence of £5.9 million coming into LCF's bank account from new investors in January 2017?

A. I presume so, yes.

Q. So Mr Thomson gets paid more when LCF does better and when Surge gets more commission, doesn't he?

A. He gets paid what we agreed.

Q. There is no correlation between any work done by him for Blackmore and any increase in LCF's bond sales or any increase in your commission from LCF, is there?

A. No. I mean, your concern with it is I tied it to LCF but that was to make sure -- you know, Blackmore was small. It was doing -- back then, it wasn't doing 5 million, it was doing 1 million, and it couldn't afford to pay Andy a consultancy fee. I set that out quite clearly in my email. I said, "Look, I know you can't afford it, Pat, but I'll pay for it if you are willing to take it on board".

Q. <SUR00063736-0001>. He emails you the invoice we just saw, saying:

"Record collections month last month with £5.9m cash coming through the bank, fantastic start to the year." You agree it doesn't say anything about working for Blackmore?

A. Yes, I do agree with that.

Q. You agree that, from his perspective, he's just invoicing to reflect the money that's come into LCF's bank account in the previous month?

A. Yes, I do agree with that.

Q. Can we look at the next one, <MDR00077672>. This is for over £30,000. You accept that Surge paid all of these ones we have looked at immediately?

A. I presume so, yes.

Q. Let's look at the next one, <SUR00070310-0001>. This one is for almost £36,000. The amount shown on this invoice was completely unrelated to the extent of any work that Mr Thomson might have done for Blackmore, isn't it?

A. It was the deal we agreed, and, as I said previously, this number would pale into insignificance for Surge if Blackmore had have come out of the rut of doing 1 million a month in inflows, got its regulation through Andy, which I set out in the email, which of course you have not shown, and he would have got -- you know, if they'd got to 4/5 million, where Andy was, for Surge, that would have meant, you know, they got their regulation, they were a better product and they attracted more inflows. We would have made an extra million in revenue. I was trying my best to unstick my sort of lesser product and get it upgraded to the better one by getting some mentorship over. Obviously now, in light of, you know, the way in which you're sort of pitching it, that's the sort of -- but yes, okay. The answer is yes.

Q. Can we look at <SUR00070309-0001>. He says: "March was a record month seeing £7.1 million go through the account, a stunning performance." The amount being paid to him wasn't tied to any work he'd done for Blackmore, was it?

A. I mean, I have answered this previously. It was -- the amount was tied to the deal we agreed at the time, and I appreciate it's increased, but -- you know, and I obviously -- you know, in hindsight, I wish I'd done it a lot less. But I'm not the kind of guy to renege on a deal if I can help it. But, yes, it has gone up, for sure.

Q. Can we look at <MDR00086469>.

This is almost £27,000. You accept that when Mr Thomson sent these invoices to you, he wasn't giving you any sort of report on any work he'd done for Blackmore, was he?

A. No. I was getting reports, but not like this, no. But, yes, that's true.

Q. Let's look at <SUR00073142-0001>. He says: "Hope you're well and enjoyed Tenerife. Please find attached Media GPS's April invoice. Are you free to meet up this week? Lots going on and it's been a while since we have had a catch-up."

So, he is sending the invoice and not giving any information about any work he's done for Blackmore, is he?

A. No, but I was aware of -- of course, what ended up happening is Blackmore ended up putting in an application to the regulator to get the same sort of regulation Andy had, and I appreciate time has

gone by and I've not had an update, but it wasn't -- we didn't -- I wanted him to give his advice and his assistance to get them up to that level. It wasn't something where I'd asked for, like, a report every month or every few weeks or something. So I think you might be reading too much into this.

Q. Let's look at the next invoice, <SUR00076641-0001>. This is £28,300. Then <MDR00093298>. That's 25,000. Then <SUR00080418-0001>. This is the covering email to the next invoice:

"Hi Paul. Hope you're well. Great month last month with the June deals that completed in July the collection through the account smashed through the £9 million mark!!! A fantastic result." This is completely uncommercial, isn't it? If he was going to consult for Blackmore, you wouldn't be paying him half a per cent of monies into LCF every month when you knew you were going to be setting these targets, ever-increasing the amount, which would result in him increasing the amount on his invoices. It is completely uncommercial, isn't it?

A. Well, it's the opposite of being uncommercial, Mr Robins. LCF, we derived £61 million in revenue from; Blackmore, we derived £10 million from. Should we have got Blackmore to the same standard that LCF was and attracted more money, I think it is quite apparent that we would have attracted more money. And so it was -- it was commercial. You know, just an extra 1 million a month for us would have been 200,000, paid for his entire, you know, sort of fee. I thought it was a good way for me to get my other bond up to the level of LCF, which, as you can see here, is doing, you know, much better.

Q. The next invoice attached to this email is <SUR00080419-0001>. We are now getting on for 50,000 a month. The next one is <MDR00100225>. This is almost £42,000 a month. You said a moment ago that his entire fee was £200,000. In fact, by this point, when you paid this invoice on 6 September 2017, you'd paid Mr Thomson over £403,000. You know that, don't you?

A. Yes, I subsequently discovered that, yes.

Q. Well, you saw every invoice. You knew that at the time, didn't you?

A. Yes.

Q. You gave Steve the instructions to pay the invoices, didn't you?

A. Yes, I did.

Q. Why did you tell Mr Shaw that you paid only half the true amount?

A. I mean, it's -- there are times in my evidence, not just to Mr Shaw, but to others, where I may have been inaccurate, but it was never for the purpose of misleading Mr Shaw, or indeed anyone else. It is just I -- you know, I had a lot of businesses, a lot of things happened, and, you know, there's a lot of detail here, as you can see. So, again, I apologise for that.

Q. Can we look at <MDR00115338>, please. Can we look at the second page, please. This is a chain about the LCF ISA. I think we might -- is there a third page? Yes, on the right-hand side, Kerry emails Kobus, asking for an explanation of the position regarding the eligibility of the LCF ISA, and Kobus gives her a response. There's then some discussion about that on the left-hand page. If we go back to page 1, at the bottom, Andy tells Owen that he's covered it off already. Then, above that, Graham thinks that Surge are getting another piece of half-baked advice?

A. Sorry, where am I looking, Mr Robins?

Q. Sorry, on the left-hand side:

"Andy.

"Thanks -- I thought that was the case. Unfortunately Surge getting yet another piece of half-baked advice."

Andy says:

"I think they're fishing for free advice so they can look more knowledgeable to another client of theirs." And Graham says:

"Andy, presumably that's Blackmore referenced in her email ..."

Looking at these -- obviously you didn't see them at the time -- you accept that they show that Mr Thomson was not willing to assist Blackmore. When he says "they can look more knowledgeable to another client of theirs", you only had one other client at this point, didn't you?

A. Yes, I was trying quite hard to get some others around 2017, certainly towards the end of it. So, yes, I only had one at that time, yes. Quite an interesting chain as well, how colloquial he is with the barrister and the solicitor on all of these things and how he accuses of us not really knowing what we are doing. But, yes, enlightening. Sorry, what was your question?

Q. It certainly looks from this exchange as though he doesn't want to help Blackmore, doesn't it?

A. Yeah. I mean, I can't tell you -- he did help Blackmore. Regardless of what was written here, he did. They put an application in. You know, that's -- you know, the sort of crescendoing view of all the invoices, you know, obviously in light of the optics you're looking at, but the reality was it was commercial. I'm a business. I'm trying to get my other products up to a certain standard. One is doing 10 -- or 9 million a month, I beg your pardon, and one is doing 1 or 2, and I need to, you know, get it going.

Q. Can we look at <SUR00159951-0001>. Kerry is commenting on an email that she's received from Andy. She says: "What a first class twat.

"If he has found some clever exemption then he should let us know how clever he has been. If he hasn't and this is a mess he isn't yet ready to confess to then what a complete idiot. The way he communicates is simply not collaborative. It is mildly offensive." He knew she wanted the information so she could share it with Blackmore and that's precisely why he was refusing to give it to her, isn't it?

A. Mr Robins, I must reiterate to you that his relationship with Kerry mustn't be conflated with everything because it was a difficult relationship in many ways. As Kerry will tell you herself, at the first opportunity to get Andy under the bus, she would have taken it. As the CEO, my job is to be above -- try to be above that. Obviously, like everyone else, I will call people dicks if they are dicks. But I'm trying to -- we are trying to build a business, and we are trying to get collaboration -- you know, get things moving, and sometimes, frankly, people are unhelpful, but, you know, to read into that too much I think is just, you know ...

Q. Can we look at <SUR00143410-0001>, please, at page 5. Sorry, I've got the wrong -- oh, no, it is the right one. It is Kerry's email to Mark Holleran. He was working with Blackmore on Blackmore's ISA, wasn't he?

A. Yes, he's a lawyer.

Q. She copies in Pat and says:

"Hi it is not my lawyers that have created this. It is LCF's (Lewis Silkin) and they won't let me into the secret because they know I will immediately exploit it for Blackmore."

Andy was never willing to assist Blackmore because he saw them as a competitor?

A. Andy did assist Blackmore. Can we just look at the date of that, please, Mr Robins, because I presume this was at the end of -- when it stopped.

Q. It's the -- yes, it's a point at which you'd paid him over £400,000 for helping Blackmore, according to your evidence?

A. Yes. So -- sorry, can I just see the date on it?

Q. Sure.

A. Right. Okay. So, I presume this was when the deal stopped. So, I think what had happened around this period of time is that, from recollection, they had made their application, and so on -- I'm talking about Blackmore here -- and the deal had stopped with Andy, and this would -- if that timeline stacks up, that would make some sense.

But, yeah, I mean, even afterwards, he wasn't particularly helpful. He was quite difficult, you know, and that's why I tried to get him to do it. I mean, could we see the email where I set the terms -- sorry, I don't get to dictate that, do I? But, look, looking at the dates, it looks like it's come to an end; that's how I sort of read that.

Q. If everything you say about this was true, then why on earth wouldn't you have gone to Andy to say, "Come on, we have paid you over £400,000 from our commissions to help Blackmore. You need to share this information with us. You have overcome your objection to helping a competitor. We have given you a lot of money. Come on, give us the information"? Why couldn't you have said that?

A. I mean, that's, you know, quite fair. It had finished. I don't understand why he's being so difficult here. I mean, it obviously was generally difficult. Who is that to? Kerry. There could be an element of that. He would write things which were difficult. I mean, I think it's come to an end and I think he's being difficult. I mean, I could have written to him, you know, in answer to your question -- not written to him; I could have rung him up and said, "Listen, what are you doing? Help them", and I don't think I did that, no.

Q. So, despite everything we have been through, you stick to what you say in your witness statement, do you: he was consulting for Blackmore?

A. Yes, sir.

Q. This wasn't you giving him an economic incentive to maximise your commission so that he'd stop trying to reduce them?

A. No, he was always trying to reduce my commissions.

Q. This wasn't, then, anything to do with him upskilling your back-office system?

A. He might say that, I presume, but, no, I don't believe so.

Q. Can we look at <A5/26> at 79?

A. I have probably said this, haven't I? The coup de grace.

Q. Have I got the wrong page number?

MR JUSTICE MILES: Perhaps you mean the internal page.

MR ROBINS: Sorry, page 40 of 79. I have got the wrong page number. Page 40 of 79. This is Mr Thomson's evidence. At page 159 -- well, sorry, it is at the bottom of the left-hand side as well, 158, he says: "Answer: ... I was not only working with Blackmore directly, I was also working with Surge's back office people to improve what they did, their processes in the back office, while I was upskilling Surge as well." You agree that's not true?

A. I don't see that as, you know -- I mean, he would have tried his best, I think, to --

Q. But you weren't paying him half a per cent of your commission to work on Surge's back-office system, were you?

A. That wasn't the terms that I set out in the email that you have not shown.

Q. Are your stories different because neither of you is telling the truth?

A. Well, I'm afraid I can't comment on that, but I'm telling the truth, Mr Robins. That was my endeavour, that was my plan. I set it out. I executed it. It didn't work. It stopped.

Q. So he wasn't working for Surge; you say he was working for Blackmore?

A. Can I read this a moment, please? I mean, "upskilling Surge as well". It wasn't what I was paying him for. I just don't recognise, frankly, that as what he did, in reality.

Q. He wasn't consulting for Surge, then? He wasn't sitting next to you and telling you how to do your job, or anything like that?

A. No.

Q. He wasn't sitting next to Ryan Holdaway and telling him what to do in the tech team?

A. No, unlikely.

Q. I'm going to show you, because you're so keen to see it, the email you're referring to, <MDR00041828>. This is the email you're referring to, isn't it?

A. I think so, yes.

Q. In the second paragraph, the second line: "One of the reasons I have asked Andy to consult for me ..."

A. Yes.

Q. It is not your evidence now that Andy was consulting for Surge, is it?

A. Right. Sorry, could you ask that question again?

Q. It is not your evidence now that Andy was consulting for Surge, is it?

A. It is not my evidence that he was consulting for Surge?

Q. You said he was consulting for Blackmore?

A. Right, okay, yes.

Q. At the end of this, you're talking about a new bond that will have Andy consult in it:

"The cost for Andy's consulting will be met by us."

A. Right.

Q. The reason these explanations keep changing is because no-one was really quite sure what the cover story was. You just needed to give Mr Thomson an economic stake in maximising your commission so that he'd stop talking about trying to reduce it?

A. No, it's just not true. It is not true. He talked about reducing my commissions from the moment -- you know, all the way through until the end; even during this he would have done that. He had ambitions to, you know, use discretionary fund managers, financial advisors, and so on.

Look, "no" is the answer.

MR JUSTICE MILES: Sorry, can we just remove the highlighting for a minute? What is the new bond that's being discussed here?

A. Could you point me to where it says that, please, my Lord? Number 3 --

MR JUSTICE MILES: Well, for example, paragraph 1, the numbered --

A. I can't remember. I mean, we -- I think it is worth noting we were probably talking about lots of bonds constantly, either new ones that our clients were producing, new ones that were being introduced ones, ones we were trying to hunt down ourselves. I can't quite recall what specifically this one is.

MR ROBINS: My Lord, may I ask two questions to see if that can assist?

MR JUSTICE MILES: Yes, thank you.

MR ROBINS: Mr Careless, do you remember there was some talk at some point of a possible joint LCF/Blackmore bond that would raise monies for both companies?

A. Potentially. I can't quite recall.

Q. You would agree that that was an idea that didn't progress very far and certainly never materialised?

A. Yes. I was trying to get some collaboration, I was trying to get -- you know, the good ones -- you know.

MR ROBINS: I don't know if that's assisted at all, my Lord, but I see the time. Unless your Lordship has any questions?

MR JUSTICE MILES: No, thank you. We will resume at 2.00 pm. Thank you.

(1.05 pm)

(The short adjournment)

(2.00 pm)

MR ROBINS: Can we go to <MDR00050083>, please. Look at page 3. At the bottom of page 3, we can see someone called Scott Allen, who was one of your salespeople, wasn't he?

A. An account manager, yes.

Q. He's emailed someone called Mr Shah to say: "Just a brief courtesy email to let you know that I expect to be emailing you our accounts later this week."

Just above that, Mr Shah says:

"It's 2 weeks now. Any update?"

On the previous page, Scott Allen forwards the email to John Russell-Murphy to say:

"This is the guy from the wealthy company in the City. He is the finance director. He has the potential to be a seven-figure investor. Do we have any accounts yet? Paul said he was viewing them last Friday with Andy."

Above that, John emails Andy:

"Please see the thread of emails below. Mr Shah who is finance director ... chasing for our latest set of accounts ...

"Based on what you had previously told us we emailed him and said the accounts would be available last month. We would like to go back to him today with a revised timescale."

I think it must be the previous page where Andy replies, copying you, to say:

"The position with the accounts is that we are having to wait for guidance from HMRC re a technical point on how to represent the balance sheet. PwC and our accountants are chasing HMRC on a regular basis but I cannot give you a timescale. As soon as the accounts are finalised I will let you know."

Then, just above that, John says:

"Guidance on a technical point should come from PwC, the HMRC accept the accounts anyway you present???" Andy says:

"John, with respect, I don't want to go through the detail with you, you will just have to accept the position as is and that I am doing what is right for my company."

At the top you have replied to Andy to say, "Good reply". Do you remember anything about the delay to the accounts?

A. The PwC accounts? I kind of have a vague recollection that they were late, yes.

Q. Do you remember reading this exchange between Andy and John?

A. I'm afraid I don't.

Q. Do you think that you thought Andy had replied well?

A. No, I don't. In sort of retrospect, reading it now, I don't think that particularly is a good reply.

Q. Do you think you might have sent Andy's emails to Mark Partridge to see what he thought about Andy's explanations?

A. Yes, quite possibly.

Q. In particular, you would have wanted to know whether what Andy said was true, wouldn't you?

A. Yes.

Q. If we look at, I think <SUR00032247-0001>, we can see Mark replies to you in the middle of the page to say: "Paul, this is almost certainly crap. HMRC do not give opinion unless there is uncertainty with regard to the law ie tax law.

"This would appear to be accounting treatment and so not likely to get an opinion. And anyway HMRC are interested in the P&L, rarely are they interested in the balance sheet unless someone is hiding profits there -- that isn't something you would ask HMRC's opinion on ... "PwC would know this -- I am not so sure what PwC have to do with this anyway."

Do you remember Mark saying that Andy's explanation was almost certainly crap?

A. No, but this is Mark, you know, so I'm not entirely surprised to read something negative, quite frankly.

Q. It is not just negative, is it? He gives a detailed explanation of why it is almost certainly crap?

A. He does.

Q. You wouldn't have thought, this is just Mark being negative; you would have thought, Andy is not telling the truth?

A. I'm afraid I must wrap -- yes, I sort of addressed this on Monday. You know, Mark is the type of person who will -- you know, has no compunction, is very blunt, and, you know, I just -- that's why I use him. You know, I use him because he is the type of person to challenge me, you know, clients, you know, but I'm afraid I don't always sort of just suddenly read it and suddenly sort of jump up. I mean, it was Mark being Mark, and I appreciate that is, you know, quite a serious sort of conversation about HMRC, but I did probably -- I don't remember it. And PwC audit was due, and I think, for me, that was a sort of barrier. Should that PwC audit have come back and blown it out of the water as a nonsense from the security that Andy was saying in all his previous emails, it would have been game over, no-one would put any money in this bond and we wouldn't have been able to work for them. So it is kind of waiting at that point to establish that. I don't know how far off that month -- when that was coming out, but --

Q. But you would have accepted Mark's opinion about this, that Andy was speaking crap, wouldn't you?

A. Yes. I mean, yes, I would have accepted that.

Q. That would have, presumably, been concerning for you, to think that Andy Thomson was lying again?

A. I think I -- you know, I oscillated on my -- as you do with anybody that you're meeting and doing deals with, sometimes they are -- they waffle nonsense and sometimes they don't. It was the nature of the type of people I surround myself with that I get blunt, you know, opinions on people, and sometimes I have to say, you know -- and during this, I think the type of thing I would be saying to Mark is, "Mark, you know, they're using PwC, you know, surely that's going to be, you know" -- so I kind of -- it just wasn't enough for me to ring up Andy and call him a liar, or something along those lines.

Q. Well, you would have done, wouldn't you? You would have got in touch with Andy to say, "Look, we know you are lying, we all know you are lying, you are going to have to come up with a better explanation because we're not buying this one"?

A. I'm sorry, my recollection of this particular sort of email chain -- this is the first time I've seen it. I can't even remember it being one of the bigger deals that Andy would have created or, you know, that would have been created through our exchanges, to be honest.

Q. Can we look at <MDR00050122>. You say in your email to Andy:

"Morning, Andy. See below. For your eyes only." What you have sent to him is a version of Mark's email but you've edited it. Mark said, "This is almost certainly crap". You have said:

"I know you won't want to hear this, but this is almost certainly untrue."

Then you have added a final sentence:

"I am concerned. These accounts are long overdue and the excuse holds no water ..."

That final sentence was your opinion, wasn't it? You've added it to the email. You were concerned and you knew the excuse held no water?

A. So, to be clear, I don't -- this is the first time I've seen this. So I've forwarded that to Andy, have I, and changed the thing that Mark said?

Q. You have changed --

A. The beginning and the end.

Q. -- the beginning and the end.

A. Can I see the previous one, please, Mr Robins?

Q. Sure.

A. What did Mark actually write?

Q. We can, I think, have them side by side on the screen. The previous one is <SUR00032247-0001>. Mark is on the right and yours is on the left.

A. Right, I see.

Q. When you added "I am concerned. These accounts are long overdue and the excuse holds no water", that was your own view that you were adding to the email, wasn't it?

A. Looking at it now for the first time in -- when is this, 2016 -- sort of eight years, I think what I take from this is that I am trying to sort of slightly dilute Mark Partridge's bluntness in a way which is not quite as offensive as perhaps he can be in person or by email, whilst still trying to get the sort of substance of the sort of issue over. But -- sorry, what was your question, Mr Robins?

Q. You were concerned because the accounts were long overdue and the excuse held no water? You were adding your own thoughts to Mark's email to make them look as though they were coming out of Mark's mouth?

A. Yes, I think I am doing that, yes, and so, yes, is the answer to your question.

Q. Can we look at <SUR00032895-0001>, please. This is an email that will be familiar to you, you have commented on it recently in your fifth witness statement. If we look at both pages, please, we can see Katy Eaves emails Jo Baldock, saying:

"We have hit our limit on our bank account to send payments, hence why they are being paid tomorrow. "The following invoices will be paid tomorrow ..." Steve Jones, on the left, comments to you: "Ha, love that."

You say:

"What's their limit?"

Steve says:

"No idea. Would include payments to Spencer as well, not just our comms."

You can see the date, 22 July 2016. If we go to <A2/1>, page 72, and it will take a moment for the document to open, in E9.2, this all comes from the bank statements. LCF paid £246,500 to L&TD, which paid £51,250 to Mr Golding, £33,750 to Mrs Hume-Kendall, £7,500 to Mr Barker and £7,500 to Mr Thomson. You understand, don't you, why we say what we say? When Steve says to you, "Would include payments to Spencer", et cetera, and there were some payments to Spencer, et cetera, on that date, you understand it looks very much like you knew, Steve knew, about the payments to Spencer, et cetera, doesn't it?

A. See, I have a slightly more generic answer to that. Can we go back to that email, please, Mr Robins?

Q. Sure. <SUR00032895-0001>.

A. The first thing to note with the question you have asked is, I had no idea that they were paying these sums, and I see that -- well, I read "No idea. Would include payments to Spencer et cetera", as Steve Jones being colloquial about the borrowing companies which he knew were connected to Spencer, not necessarily the way in which you have just -- and I can see the evidence you have just shown me afterwards, but I -- Steve and I would never have -- we didn't have sight of that. The very first time I saw the 40:40:20:10 sort of split -- sorry, 45:45:5:5 split was in your submissions, your opening submissions, or maybe a bit before, actually. But this wasn't -- you know, we were relying at this stage on, you know, these professions that were connecting it all up and being a part of it, and we thought they were legitimate and we thought they were proper and building a decent company. I didn't -- I just don't see that as -- in the way in which you're characterising it.

Q. I think I said it is your fifth witness statement, it is actually your fourth [<C2/6>, page 2]. In paragraph 4, you say:

"I found nothing suspicious in this. Steve and I both knew that LCF had lent money to Spencer's businesses."

Is that your evidence?

A. Yes.

Q. In paragraph 5 you say:

"I had no knowledge at the time that LCF was making payments to Simon, Andy and/or Elten."

Is that your evidence?

A. It is in my statement, yes, sir.

Q. In paragraph 6:

"I was not aware of any payments to Simon personally. As with Spencer, I knew that LCF had lent money to his businesses."

Is that your evidence?

A. Yes.

Q. Just starting with that, do you accept from me there were 21 business days in July 2016?

A. Yes, sir.

Q. We know from the bank statements there were payments to Spencer, Simon, Andy and/or Elten on only six of those days. Do you accept that, if I say it?

A. Yes, sir.

Q. Do you say it is a coincidence that Steve sent this email to you on one of the small proportion of days on which there just happened to be payments to Spencer, Simon, Andy and/or Elten?

A. Of course. I mean, unless you are suggesting that Steve Jones knew, and I knew, that they were having that money sent to them individually. I mean, we just didn't have sight of it. We thought the borrowing companies were set up by proper lawyers and so on and so forth. I mean, yes is the answer, it must have been a coincidence. "Spencer et cetera" is a generic term. He is referring to the sort of borrowing companies, I'm certain of it.

Q. When you say in your fourth witness statement, "Spencer's businesses, Simon's businesses", you are talking about the tourism and development businesses and the oil and gas businesses, aren't you?

A. I'm not entirely sure -- when are we talking here? In 2016 or more generally.

Q. In July 2016, the period you are addressing in your fourth witness statement. Do you want to look at your fourth witness statement? We can go to it. <C2/6> at page 2. We were looking at paragraph 4, line 8: "I found nothing suspicious in this. Steve and I both knew that LCF had lent money to Spencer's businesses."

Then paragraph 6:

"I was not aware of any payments by LCF to Simon personally. As with Spencer, I knew that LCF had lent money to his businesses ..."

You are talking about the businesses and you are referring to the tourism and development businesses and the oil and gas business, aren't you?

A. Yes, I think so, at that period of time.

Q. If we go to <C2/3> at page 16, in paragraph 73 of your statement you say:

"I knew in 2015 that money was being lent by LCF to a company being run by Simon, LOG."

The date isn't quite right because the first advance to LOG was not until March 2016. But by the date of the email we were just looking at, 22 July 2016, you knew that LCF had made substantial loans to LOG, didn't you?

A. I don't know about "substantial" and I'm not even sure -- I mean, LOG --

Q. This is your witness statement we are looking at here?

A. Yes. I'm just trying to think about it for a moment, Mr Robins. I think the answer is yes.

Q. You mentioned it yourself earlier: you accept that Steve's email doesn't refer to Spencer's businesses or Simon's businesses or the borrowers, does it?

A. No, but it does say "et cetera".

Q. It says "Spencer". That's the individual, isn't it?

A. Yes, sir.

Q. It doesn't say "loans", it says "payments", doesn't it?

A. Yes.

Q. Can we go back to -- well, maybe we don't need to go back to it. We saw it yesterday. Do you remember I took you to Kerry's explanation of the meeting in February 2015. We can go back to it, if you would like to --

A. February 2016, I think it was. Yes, I remember it.

Q. February 2015.

A. '15?

Q. In the Long Barn.

A. The original meeting?

Q. The original meeting.

A. Yes, sir, I do.

Q. Maybe we don't need to. We saw yesterday she said that Simon Hume-Kendall himself was in the final stages of getting his oil investment ready for sale to the public: "We ... made all the right noises, 'Oh, it's wonderful and we're very interested', but actually we thought, from a marketing and sales perspective, this would be a harder thing to sell to the public." She said in her witness statement [[C2/4](#), page 7] -- we saw it yesterday -- that Simon's real interest was in oil bond:

"... Paul and I thought this was less attractive than working for SAFE because we couldn't see that the public would be interested in an oil bond. It seemed too speculative and risky."

We also saw in her interview yesterday [no reference given] -- we then moved on to, "We have got this leisure and tourism business that was also a bond. Again, we didn't want to say the wrong thing to put them off, but land in Cape Verde is not what the retail public really want to invest in, too high risk". She said, "We weren't that keen because they mentioned Cape Verde. We thought the everyday person on the street is not going to want to invest in Cape Verde". And you said yesterday that that was all correct.

You knew that LCF was being sold to the public on the basis that it lent to UK SMEs, didn't you?

A. Yes, that was its business plan and I believed in it.

Q. You knew that it was actually lending to the unattractive, high-risk oil and gas business and the unattractive, high-risk tourism and development business, didn't you?

A. Initially I did, yes.

Q. In January 2016, you knew that?

A. Sorry, by "initially", I meant, as I understood it, they were the initial investors.

Q. Do you mean investors or do you mean borrowers?

A. Borrowers, I beg your pardon.

Q. You knew that LCF and the talk of lending money to UK SMEs was just a front for raising money for those unattractive businesses which you'd thought were too risky to even attempt to sell to the public?

A. I didn't see them as -- I saw -- I understood the security was this place in Cornwall and there were other securitisation going on, but I think your -- we need to make a distinction between what the investment was and what the security was. I really didn't mind what the security was as long as it was ratified by a good-quality auditor. It wouldn't matter to me.

Q. But you'd know it would matter to members of the public because you thought that an oil bond would be too speculative and risky, Cape Verde is not what the public really want to invest in, too high risk. It would matter to them, wouldn't it?

A. I'm not sure it would. I think they would be more -- I think the security -- I'm not talking about the investment here, I'm talking about the security. I think, as long as the security is ratified, what it is matters much less, and who ratifies it I think has some serious bearing on that too.

Q. If it doesn't matter, why is it, as you knew, your salespeople were never, ever telling prospective bondholders, "We are lending the money to an oil business. We are lending it to a land bank with property in the Dominican Republic. We are lending it to something to do with Cape Verde"? Of course you knew it mattered to members of the public?

A. I'm not sure that stacks up, Mr Robins. When you -- you know, when you take a product from a bank, you put money in a savings account, they don't decide to tell you they're putting it in -- buying highly speculative hedge funds or so on and so forth. I mean, it is just not something -- you know, you want to know it's secure and I think that's more -- far more important than the type of product it is. I mean, security is security. I mean, it is just a word to describe something that you can realise into cash to pay off the sort of debt.

Q. There's no difference, is there, between a leisure and tourism company that issues a bond and a bond company that lends all its money to the leisure and tourism business. Those are just two different ways of doing the same thing, aren't they?

A. Sorry, could you say that again for me?

Q. There is no difference between a leisure and tourism company that issues a bond and a bond company that lends all its money to the leisure and tourism business?

A. No, there is a difference.

Q. Those are two different ways of doing the same thing, aren't they?

A. I suppose you could look at it that way. There is a difference. One of them is lending money, and the ambition was, and we believed it, to lend to more businesses and obviously, as time came on, we realised that, you know, they were only doing it to 11 companies, but by which time the security was

so enormous that we didn't have -- and the auditors were so high quality we just didn't have that concern.

Then, to answer your very specific question, I do see there is a difference between those two things. I just do.

Q. You were involved in dressing up something you thought was highly unattractive to make it look more attractive to members of the public, weren't you?

A. Mr Robins, we are a marketing company. We are not an auditor, we are not an accountant, we are not solicitors. We are a marketing company. Our job is, when asked, "These are our products" -- we are seeing lots of bonds. They are showing us their products, all sorts of things. They ask for an opinion, we give it. They say it is that. We say, "Can you put some security in? That's what will attract the money". They say "Yes". Clearly, there is a sort of time period where we are trying to push it to get it done. They bring it up, it is audited, we are comfortable. I can see your point that you are making, but I just can't -- I just can't agree that they are the same thing.

Q. You knew that your salespeople weren't saying to the public, "LCF is lending money to a company that's lending money to an oil company or to something to do with land in Cape Verde or the Dominican Republic". You knew it was a story about lending to SMEs. You would agree --

A. Because we believed that, Mr Robins.

Q. You knew that it was lending to --

A. SMEs.

Q. -- Simon and Spencer's business. That's your explanation of why "payments to Spencer et cetera" doesn't mean payments to the individuals, isn't it?

A. That is true, but we were also under the belief they were lending properly and with oversights that were City lawyers and big accountants. I mean, it just wasn't within our gift to sort of question -- you know, we believed that. I mean, it was -- there are times where we were cynical and some more than others, of course, and there were times where we weren't. You know, I think we have been -- you know, for the last three days, I have been speaking about the first year, when we did 10 million. I know this is not enquiry, but 230 million came in because the audit said the security was there and I believed that was the case. I believed that was the case right into 2019. I invested in IOG. You mentioned that earlier. As did lots of people I know. We believed in that product. And that was after all of this sort of stuff. I mean, I just -- I just don't -- I can't agree with you that they are the same thing. A securitisation is sort of different. What they secure it with, it doesn't -- it just doesn't concern me as much, frankly.

Q. Let's go through it one more time. You thought an oil bond would be too speculative and risky for the public to invest in. You thought Cape Verde is not really what the retail public want to invest in, too high risk. You know LCF is talking about SME lending. In fact, all the money is going to things which you said are too high-risk, too speculative and risky. You know the public are not being told about that, they are being told a different story. Would you accept that you knew LCF was being presented to the public in a seriously misleading way?

A. No, I don't agree with that, Mr Robins. I mean, now, in hindsight, with all the information you have at hand, of course that's -- but, at the time, it just didn't -- you're talking about LOG. I told you this previously. I'm sat in Goldman Sachs with Simon Hume-Kendall with 20 Goldman Sachs people,

talking about hundreds of millions of pounds. I'm seeing audits from EY and two of the largest four. I can't equate --

Q. Are you saying that happened at some point before 22 July 2016?

A. That what happened?

Q. At some point before 22 July 2016, you're sat in Goldman Sachs with Simon Hume-Kendall, are you? When did that happen?

A. I'm afraid I couldn't tell you.

Q. It didn't happen at any point before the email we were just looking at, did it?

A. I couldn't tell you.

Q. This is, again, your reconstruction, isn't it? You're grasping for things that enable you to say you thought it was legitimate and not giving your honest evidence?

A. That's not true, Mr Robins. I am giving you my honest evidence. I'm giving you my best recollection as I can. I do see your point, and I just can't -- I'm a marketing company. If PwC say the security is there, I just -- I cannot -- I mean, in good faith, no company -- the whole FTSE 100 would need to be considered. I mean, there has to be a point where someone can rely on information and the professions around them to a degree where I'm comfortable, more than comfortable. But, look, it was speculative, the oil business, from a marketing point of view, because it was very early.

I just can't agree with that, Mr Robins.

Q. How much did your Ferrari cost?

A. How much did my Ferrari cost? The one I bought when I sold Money Expert for 50 million or the one I bought from this company when I managed to get the product market fit, scale it, put 100 staff in and drive them forward? If you are talking about this company, I presume around £70,000.

Q. <SUR00042009-0001>. Is it £175,000?

A. It does appear so, yes.

Q. This is why you turned a blind eye to what you knew about LCF, isn't it? The money was too good?

A. As I said to you previously, Mr Robins, I'm an entrepreneur and I can't sit here and allow myself to just be berated for trying to create profit. It is my -- it is what I do, it is what businesses do. I am a start-up guy. I believe in capitalism. I believe that if you can build a business with hard work and energy -- I work 12-, 14-hour days. I lead people, I drive people, I take risks. Anybody in here who has ever built a business and scaled it will know precisely the effort required. Yes, I can't sit here and apologise that I've, you know, built businesses and created, you know, revenue and profit. It is a nonsense to be able to sit here and do that. I didn't turn a blind eye. Why -- sorry, I'm going on.

Q. <SUR00135646-0001>, please?

A. Mr Robins, I've been driving Aston Martins since 2006.

Q. This is 28 September 2016. Kerry is emailing you. The subject is "Important: LC&F Surge agreement". She says: "Andy has asked me to sign a contract between LCF and Surge.

"He wants this signed today because his auditors need it."

She says in the next paragraph she hasn't read it yet. Do you remember Kerry telling you that Andy needs this to be signed to get the audit across the line?

A. Yes. This is something I'm aware of.

Q. Do you remember forwarding it to Mark and Steve to ask them for their views on the draft contract?

A. Yes, I do -- I don't remember, but I recently looked at these documents.

Q. Do you remember Kerry's view was that you should get it checked out by a solicitor?

A. Yes, I do.

Q. She told you that it would be prudent to have a solicitor review it?

A. I also agree with that, yes.

Q. Could we look at <MDR00059720>, please. I think that's the right document. In the middle of the page, you're emailing Kerry to say:

"Can we just sign this? It's to help him." Do you agree that, if you're saying that to Kerry, it is probably because you have had a quick look at it, it seems broadly fine, and you're thinking, "Do we really need to make a meal out of this? Can't we just sign it?"?

A. I think the context around this, Mr Robins, is, it was required for the audit and I was keen to get the audit. The reason I was keen to get the audit is, all of the cynicism that you see as suspicion, it would have cleared it up. So, I was keen to get that audit through. I wanted to see it published. So, yes, it's -- it is fair to say.

Q. You probably had a quick look at it and thought, "It looks fine, can't we just sign it?"; right?

A. Potentially.

Q. Probably?

A. I can't remember if I looked at it or not, I'm afraid. I'm not big on, sort of, the detail.

Q. But you wouldn't be saying, "Can we just sign this? It is to help him", unless you had at least a quick look at it. I'm not saying you'd have necessarily studied every last clause, but you would have had a quick look at it, wouldn't you?

A. I honestly couldn't sit here and --

Q. This is the contract that governs your 25 per cent. You would have had at least a quick look at it, wouldn't you? This is your company's most important commercial relationship.

A. I know, but I'm --

Q. You would be likely to have a quick look before you say, "Can we just sign this? It is to help him". Surely?

A. I just can't recollect if I did or not.

Q. You probably did, didn't you?

A. Right.

Q. Do you agree it is likely that you did?

A. I could have done. I mean, I can't sit here and tell you either way if I did or I didn't, Mr Robins, I'm sorry.

Q. Let's have a look at the agreement, <MDR00059587>. Do you see, at the top, it says:

"This agreement is made the [blank] day of [blank] 2015."

A. Yes.

Q. If you had looked at it before you said, "Can we just sign this? It is to help him", you would have been happy with signing a backdated agreement, wouldn't you? That would follow?

A. No. I would not have signed that. I don't know when you date these things, but --

Q. Well, it says "2015" at the top and he needs to evidence it to PwC --

A. I presume the date is put on by the person that signs it, or indeed the lawyer who sort of --

Q. Never mind the blanks. I'm just talking about the year. This is 2016, September 2016?

A. Oh, I see, yes.

Q. He's put the date "2015" on it.

A. Yes.

Q. You understand this is to evidence it to PwC. If you had looked at it and thought you should sign it to help him, you would have understood that you were being asked to sign a backdated agreement, wouldn't you?

A. I probably wouldn't have understood that, no. I mean, my understanding is --

Q. It's at the top of the page. Surely you would have --

A. I do see that and I can see the date there that you sent the email. You see, my understanding with backdating documents back then, or indeed now, is you can agree something and then sign it, as long as you make a note that that is properly what you have done. But I would not have assisted him in, you know, lying to the auditor. I mean, it wouldn't benefit me in any --

Q. You were desperate to see the audit. You said you were desperate to see the audit. You would have been happy just to sign something, if it was backdated, if he needed to evidence it to the auditors to get it across the line, wouldn't you?

A. No.

Q. Can we look at <D7D9-0006795>, please. This is a message between you and Kerry. She's sending you screenshots of her message from Andy and we can see, at the top of the page, he's said:

"... I really needed it yesterday morning, not having it has created additional work and has prompted PwC looking into us in more detail. We have nothing to hide but this will add more ..."

She comments:

"Now he's being a twat. Don't worry I'm dealing with ..."

Then the next message from Andy:

"You have completely missed the point of why I needed it, this was the contract we agreed last year, I thought it would be a simple request to simply sign it. I needed Surge's support to get the audit concluded and it didn't happen and has had knock-on issues. As you are wanting to go down the solicitor route, I will forward your revisions to Lewis Silkin who will no doubt advise me that LCF needs a far more robust contract to protect its position especially as the FCA are looking at ..."

We don't know the rest of what he's said because --

A. This is him to Kerry, isn't it?

Q. The message from him to Kerry hasn't been disclosed by him or you. The message chain between you and Kerry hasn't been disclosed either. Can you just confirm, you did give your devices with all your WhatsApp messages to your solicitors?

A. Yes, sir.

Q. You haven't held anything back?

A. No, sir.

Q. So, if we don't have the documents, you'd say it is their fault rather than your fault?

A. Mr Robins, I have spent £4 million on this litigation. All the money I have. I have had the largest burden of any defendant. I have been in this court from day one of the last five years, I have attended more than any other person. I have done my best to participate in good faith in this trial. And I am sorry that there perhaps is an issue, but I can assure you from where I'm sat that my lawyers have done -- have tried very hard to do it properly. I mean, I -- we used a company, it cost over a million quid. I mean, yes is the answer, I gave the phone and all of its material to the company. I was without a phone for two days while they did it at some point last year.

Q. Can we look at <SUR00135762-0001>, please. It looks like Andy hasn't got anywhere with Kerry so he's emailing you. Right at the bottom of the page: "I tried to call earlier to talk you through the position with PwC ..."

"Just for your info I've attached two documents, the LC&F distribution agreement was agreed last year with Kerry and the LC&F Surge agreement is the same document with a few minor changes to reflect the actual position and that we offer bonds not loan notes. As you can see they are practically identical but Kerry has insisted on seeking legal input and wants to change these further. As she had agreed the doc last year I felt it would have been an easy ask to just sign it so I could evidence it to PwC ..."

You understood he was asking you to help him create evidence to give to PwC?

A. I don't read it like that. I read it like he's trying to go over Kerry's head to me to get me to sign it or to get me to get Kerry to sign it, something along those lines.

Q. Can we look at <SUR00135766-0001>, please. Mark is commenting to you about Andy. On the left: "He just talks out of his arse. The original agreement is fine, the other one is fundamentally different."

You're forwarding that to Kerry, John and Steve. There was a shared view between you, wasn't there, that Andy was someone who just talks out of his arse?

A. This email is to me, isn't it?

Q. Mark's email is to you, yes, and you forward it to --

A. So I forwarded on what Mark -- what Andy said I forwarded to Mark and Kerry -- or I forwarded it to Kerry and then I forwarded it to Mark. Okay. I think it's fair to say that Mark thought most people were an arse, but, yes, Kerry and various other people were not big fans of Andy.

Q. Not "was an arse" but "talks out of his arse". That's another euphemism for lying, isn't it?

A. Yes. I mean, "The original agreement is fine, the other one is fundamentally different. If he wants to pay VAT on top of the commission he can sign the new one". This sounds like I'm sort of passing the buck here, but I would have left -- I would have pushed the detail of that to someone else to deal with, and I presume that, you know, it was sufficiently different that no-one wanted to sign it.

Q. The shared view between you and Mark, John, Kerry and Steve was that Andy was someone who talks out of his arse?

A. I think, on occasion, that's fair to say.

Q. If you look at <MDR00060092>, Kerry is emailing Andy, she copies you:

"I attach the amended contract for you to review." I know you'll say that you weren't closely involved, you left it to Kerry, but she kept you in the loop, didn't she?

A. Yes, she would have, yes.

Q. Could we look at <MDR00060093>. This is the amended contract that she sent back, and you can see, at the top of the page, it still says "2015"?

A. Right.

Q. Everyone on your side of the divide in the Surge camp was happy with signing a contract dated 2015 to evidence it for PwC. That's right, isn't it?

A. I mean, Mr Robins, we instructed a City firm called Macfarlanes to construct our contract with Blackmore and then subsequently with LCF.

Q. That's all later. I'm asking you --

A. Oh, is it later? Sorry.

Q. -- about September 2016.

A. We are still in September 2016? I beg your pardon.

Q. The only person who has seen this is "Kinchy", Steven Kinch. Has he been struck off as a solicitor or involved in some disciplinary problems?

A. No, but he's recently died. He was a good man, and I understand that his character --

Q. He was involved in some problems as a solicitor, wasn't he?

A. He was a good man. I can't sit here and allow his character to be torn apart by someone who doesn't know him, Mr Robins. He --

Q. Is the answer to my question "Yes"?

A. No, the answer is no. He had some AML issues. He had -- he was --

Q. Wasn't he struck off?

A. I don't believe he was struck off.

Q. Okay.

A. Perhaps you might want to check the record on that, Mr Robins. I think he may have had controls where he couldn't have taken client money due to some AML issues. But he was an honest and decent man.

Q. The only solicitor who had seen this was Steve Kinch, wasn't it?

A. Sorry, could you say that again?

Q. The only solicitor who had seen this draft was Steve Kinch?

A. I'm afraid I couldn't tell you. After that, you know, sort of attack on his character --

Q. It wasn't an attack on his character. I believe it is entirely factual.

A. I don't think it is factual, Mr Robins.

Q. You were mentioning Macfarlanes. You hadn't instructed them at this point, had you?

A. Sorry, I beg your pardon. I might be confused. There were two contracts, weren't there, for various ...

Q. Sorry, I was saying everybody on your side was happy to sign the document dated 2015 so that Andy could evidence it to PwC, and you started telling me about Macfarlanes. I told you the only person who had seen it was Steve Kinch. You got annoyed. Macfarlanes weren't involved.

Let me rephrase the question. Everybody on the Surge side who saw this was happy to sign the document dated 2015 so that Andy could evidence it to PwC?

A. Okay. Fair. I apologise for being upset there and being aerated. Mr Kinch, if he was struck off --

Q. Sorry, suspended for 15 months for allowing his firm's account to be used as a banking facility. Suspended.

A. So, as I said, not struck off and it was an AML issue. But, look, I'm sorry for being that -- he was a friend of mine. I just didn't expect that. You're suggesting we backdated it in some sort of cohesion with Andy. Is it not possible to -- I often start businesses and you sort of catch up the with paperwork and you would draw the paperwork to reflect the services you did previously. I think there is a bit of a jump from that to concealing your -- you know, concealing or trying to lie about something. We just wouldn't -- that wasn't what we were trying to do, I can assure you.

Q. You were so desperate to see the accounts that you didn't mind a little thing like signing a backdated agreement so that Andy could get it across the line with PwC?

A. I just don't believe that's true. We would have done our best to do it properly and Kerry would have been in the vanguard of that.

Q. You know, don't you, that Kerry did sign a version of this agreement with -- not the version that had been agreed by Andy, but she sent this version with Steven Kinch's changes back to him with the date of 2015 at the top?

A. Right. Okay. I accept that.

Q. In fact, I think we may be looking at the signed version. Is there a signature at the end of this? The previous page. That's Kerry's signature, isn't it?

A. Yes, I think so.

Q. She's attached it to an email that says: "Recognising this is time critical, I also attached a signed version."

If we go back to page 1, she's signed a version with the 2015 date at the top, hasn't she?

A. Right. Okay.

Q. Go to her email at <MDR00060092>. We can see you've been copied into that. The email is referring to, second paragraph:

"Recognising that this is time critical ..." You knew she'd signed a backdated contract so he could evidence it to PwC to get the audit across the line, didn't you?

A. I don't -- I didn't see it as that, so I'm sorry if we have done something wrong at this stage, because I didn't see that as what we were doing, frankly. I wouldn't have expected Kerry to consider that as a problem either.

Q. Can we look at --

A. Sorry, we have signed it, but we have not dated it or something? Is that what's --

Q. No, it has the date "2015" at the top. It was signed in October 2016 with a 2015 date so that Mr Thomson can evidence it, to use the word --

A. I see, so Mr Kinch is the gentleman who -- the lawyer who sort of okayed that and that's why he's going under the bus. I see. I'm afraid, Mr Robins, that this was not a purposeful backdating by us, and I'm -- you will hear from Kerry yourself, but I'm not sure if she didn't see the date or if she presumed it was okay to do that. Which lawyers was Andy using at this point? May I ask you that? Or may I have that information?

Q. Buss Murton, Mr Sedgwick's firm.

A. Buss Murton, okay. Fine.

Q. We saw -- we can see at paragraph 1: "I attach the amended contract ..." Kerry has made, and Steven Kinch had made, quite a few changes. They didn't change the date. She was happy to sign it. You were happy for her to sign a backdated contract if it helped Andy to get the audit over the line with PwC, weren't you?

A. No, I was not.

Q. Can we look at <MDR00224141>, please. At the bottom of the page, Kerry is emailing Mark and you: "Andy is chasing me to complete the contract. "Is there any progress with establishing if we are VAT exempt ..." et cetera.

Then, at the top of the page, this is where Macfarlanes get instructed:

"Hi Kerry.

"No we do not have the BB agreement yet. Speaking to the Macfarlanes team. This really isn't something that can be rushed as it is crucial and arcane." He is talking about VAT, isn't he? Do you remember the issue was there's no VAT payable on introductions but, if you are providing a different blend, including other services, then, arguably, VAT could become payable and you didn't want to have to start charging 20 per cent on top of the 25, did you?

A. I think I do remember this because it was mooted at that point by Kerry, and indeed in a conversation we had, whether we should set up two companies: one that does the marketing; and one that does the -- obviously I wouldn't be here because it would be 10 per cent of 15 per cent, and that was something other people recommended to be a way to deal with the VAT issue. But, yes, that's talking about VAT, Mr Robins.

Q. Then he says:

"LCF will have to retrofit once we are happy with the treatment.

"By the way, LCF accounts have been filed so he cannot use the auditor requirement on us." It seems as though this is when you find out that the PwC audited accounts had been filed. Do you think that's right? He's telling you, "By the way" --

A. Yes, "LCF accounts have been filed so he cannot use the auditor". I don't quite know what that means, but yes.

Q. The auditor requirement, Andy was saying, "You have to sign this because I can't get it across the line with my auditors unless you sign", and Mark is saying the accounts have been filed. That's what you understood; right?

A. I see what you are getting at here, you are getting at the fact -- I think I can see. Would you spell it out for me, please?

Q. You must have thought something strange was going on, because Andy has been putting all this pressure on you and Kerry saying, "Unless I can have a signed contract, I'm not going to be able to get it over the line with PwC". It must have been a surprise for Mark to be telling you, "Actually, somehow, I don't know how he's done it, but he's got it across the line and the accounts have been filed". Were you surprised by that?

A. I genuinely wasn't, no. I didn't have that forensic sort of view on it because I'm not looking at it as a fraud, at this stage.

Q. You think this probably was the first time you became aware that he had managed to get it across the line somehow?

Let me put it in less tendentious language. Probably the first time you became aware that the LCF accounts had been filed? I will use Mark's language.

A. Yes, I mean, there was -- it wasn't the first time. I was aware there was a previous company, Oliver Clive & Co, who were the accountants, and then I think it went from them to these -- to PwC and then from PwC to Ernst & Young. That was the sort of events timeline, as you will be aware. I didn't pick up on it. I didn't, genuinely, pick up on it.

Q. But you don't think you knew about the accounts being filed before Mark told you?

A. I don't know. Potentially. It was something we were keen to see.

Q. Let's have a look at the accounts. We have got them at <L1> at page 7, I think. <L1/1> at page 1. Sorry, I have written it down incorrectly.

MR JUSTICE MILES: That's not the right one.

MR ROBINS: That's not the right one. It is <L1/7>. That's where I have gone wrong. So, this is the accounts for the year ended 30 April 2016, which Mark told you had been filed. Do you say you looked at these accounts?

A. Very unlikely.

Q. If you'd looked at them, on page 4, you'd have seen "Value of secured assets, 60.7 million". You'd have probably thought, wouldn't you, "Hang on, something can't be quite right here because Mr Thomson told us that the value of the security was 35 million". You would have noticed some sort of inconsistency, wouldn't you?

A. What, quite recently, are you saying?

Q. He told you, on 1 July 2016, that --

A. Oh, yes, he did.

Q. -- the value of the security was 35 million?

A. I mean, I wouldn't have read them. I would have asked someone else to -- other people would have read them than I did. But, I mean, I -- yeah, I mean, obviously, there is quite a difference there, that is fair to say. I --

Q. You don't think that's something you would have noticed because you didn't look at them?

A. No.

Q. Can we look at page 11. Again, if you'd looked at them, you would have seen profit for the year ended 30 April 2016, right at the bottom, is £166,000. Surge had been making more than that per month during this period. If you had looked at these accounts, then surely you would have thought, something is very wrong here, wouldn't you? That's something you would have picked up?

A. Well, who did these accounts? PwC?

Q. PwC.

A. Yeah.

Q. If you had looked at them, you would have thought, "Hang on, why on earth is Mr Thomson letting us make way more than this per month when his company is making less than this in a year?". You would have thought that was a serious anomaly, if you had looked at them, wouldn't you?

A. I just didn't think that at the time.

Q. Because you didn't pay attention to this document, you didn't look at it?

A. I mean, it just -- I was sort of doing -- I was more driving the sort of team. I would have let other people -- Mark would have looked at this. Kerry would have looked at this. I'm pretty sure JRM and various other -- maybe other people would have too. But, I mean, can I just point out that PwC gave me enormous comfort because they were -- you know, if you are committing fraud, you just go to

your local -- you don't use the best -- and I've seen subsequently in the discovery, you know, they knew everything, they saw everything, as did Lewis Silkin saw everything. But I'm not --

Q. I'm not sure you have seen that, Mr Careless. You didn't know what he'd given to PwC, did you?

A. Well, no, I didn't know that.

Q. You didn't know, for example, if he'd given them a letter signed by Simon Hume-Kendall to evidence the value of an asset. You didn't know that, did you?

A. No. Is it in these accounts?

Q. No, it's what was given by Mr Thomson to PwC. But you didn't know what he'd given to PwC, did you?

A. Right, okay. No, I didn't know that.

Q. You had no idea what he'd told them to get this across the line?

A. No.

Q. You didn't know what assets LCF had, where they were located, who had valued them. You knew nothing of that?

A. Well, I mean -- no, I didn't.

Q. These accounts gave you a binary, didn't they, because, as you said earlier, if PwC had confirmed some of the suspicions of you and certainly those around you by uncovering fraud, then bond sales would have ended, your commission would have ended, game over. But if, somehow, Mr Thomson manages to get it across the line with PwC, then you can say, "Oh, well, we can put aside everything we know about Mr Thomson -- his lies, all the loans to connected companies, we can put aside what we know about him lending to Simon and Spencer and their unattractive businesses, we can put aside what we know about the borrower side and the lender side and the security trustee all being the same, and we can just say 'We are relying on PwC', we can crack on, the money can roll in". That was the equation that was before you, that was the binary, wasn't it?

A. Obviously, the way you phrase it, it's difficult to agree with that. There were so many factors. There was Lewis Silkin and I probably had have met Mr Watkins by then or at least some other people in there. I had seen -- you know, you are talking about what appeared to me. You just don't commit fraud and go to PwC and say, "Check my accounts out". I just don't believe that. That would be a ridiculous thing to do. I did believe PwC's accounts. It is likely I didn't read them, but I would have asked other people to, or they would have told me anyway, just unsolicited. You know --

Q. If you had known that people on your -- on the Surge side were -- Kerry was happy to sign a backdated agreement so that Andy could get it across the line with PwC, you knew you couldn't trust what was in the PwC accounts. Andy was a bullshit merchant. You had no idea what nonsense he'd managed to smuggle past them.

A. I just find this incredible. I mean, no, Mr Robins. I just can't agree with that. I mean, I've said this to you numerous times because I took so much comfort from it. These are PwC. They are a top auditor of the world. Lewis Silkin is a specialist investment fund business that's drafting the IM that sees the borrowers. Barristers as smart as you, as forensic as you, telling me the things we can and can't do to breach the perimeter, telling me he worked at the regulator for ten years. Yet, somehow, I, without a GCSE to my name should have discovered it through the accounts? It is ridiculous. I just

can't agree with that. Even if I did look at these accounts, I presume that the checks that PwC would do would be -- and there would be something here. Probably not in writing, but I would have said something to Mark about, "Can we rely on these?", and I'd know, because, like I say, I might not have a great memory on lots of things, but there are certain things I'm ironclad on. And Mark used to work at Ernst & Young as an auditor. He'd have said, you just -- you know, obviously, now I'm very alive to the fact that auditors do get these things wrong, but back then I was blown away by the quality of these. So I just can't agree with that characterisation, I'm sorry.

Q. You would have known that Mr Thomson probably hadn't told PwC that all loans were to connected entities. He very probably wouldn't have told them that?

A. I mean, are you talking -- I mean, with what I knew then -- no. I mean, with what I know now, it's obviously different. But what I knew then, I presumed that Lewis Silkin, who knew everything, they drafted everything, they wrote the connected statements, they were there, they were talking about it. I presume they would not allow Andy to lie. I had to have some faith. If you wander around your entire life deciding everyone is a fraudster, you will do nothing.

Q. You knew Andy was a liar, you knew he had a problem with the truth. You thought he probably hadn't told PwC that all loans were to connected entities. That's surely what you thought at the time?

A. I just -- I'm afraid I didn't.

Q. Well, you probably thought at the time he wouldn't have told PwC all about Spencer?

A. I mean, I -- you know, as many times as you say it, I can't just change my answer to appease you. I believed that these were real and I actually thought -- at this stage, I think I had a big relief thinking, "Crikey, this is great". You know, "We really have found a great company which is going places", and we were keen to attach ourselves to it. We were looking at other bonds. None of them looked as impressive -- and, despite Andy's sort of personality, because that's what we're sort of discussing, I believed him to be -- to have a grasp of what he was good at and he was very good at the sort of banking side of it and the regulatory side of it. I know from a personal basis that a lot of people say -- you know, you call him names and so on, but I can't read too much into that. I mean, conflict is in every business by everyone. People think that of many people. I can't -- I'm sorry, I did take comfort from these, despite --

Q. You probably would have known he was unlikely to have told PwC that the lender side and the borrower side and the security trustee are all the same people, the same group of people?

A. Sorry, could you say it again, sir?

Q. You would have thought that he was unlikely to have told PwC that the lender side, the borrower side, security trustee, are all the same group of people? That's not something you thought he would have told PwC?

A. I mean, in hindsight -- what I knew then, clearly, was that, if he had Lewis Silkin, they were better than any of the bonds we were talking to, he had PricewaterhouseCoopers. I sort of -- I just -- I just presumed that this was as good as it gets, frankly, certainly for a bond, anyway. I mean, I couldn't have thought -- I thought we were off on a bit of a tear now, it was going to be great, because this was a brilliant business. I just can't -- I know you're trying to ask me what I thought that he told them, but I presumed that's not how audits work. If you just got an audit through what you told

someone, we would all be FTSE 100s, wouldn't we? Surely they have to have some sort of scrutiny involved in what they do to be auditors?

Q. You thought you would be on a tear because you knew you could use the PwC audited accounts very effectively in conversations with members of the public, didn't you?

A. Absolutely, yes.

Q. You didn't know what this confirmed liar had said to PwC to get it across the line and you didn't care, did you?

A. You do seem to be conflating the things that have now become apparent with the things I knew then. Despite all of the stuff you've mentioned today, I still believed that -- I just can't agree with you that this didn't stack up. I mean, I struggle a bit.

Q. Do you think he would have told PwC that he'd asked your salespeople to spread a misleading message about 120 borrowers? Do you think he would have told that to PwC?

A. Well, no.

Q. Do you think he would have told PwC that he had got you all to go out talking about an independent security trustee who wasn't independent? Do you think he told that to PwC?

A. They weren't there for very long. No, I don't think he did. I don't know if he did. I'm sorry, I can't --

Q. You didn't think that he was likely to have revealed to PwC any of the concerning things that you knew about LCF?

A. I genuinely believed, back then, that this was a proper audit and that you can't just -- I remember ringing up Mark, or maybe I emailed him, but I think I rang him up and said, "Mark, was that good or was that not good?", because he would have read it, of course he would have read it. He was desperate to show it wasn't good, I presume. Kerry would have read it. She would have been keen to read it. Everybody said it was good. I just -- PwC, the brand, the sort of -- the fact -- I don't know. I probably don't quite understand how the process works with an audit, but I'm just presuming you just don't fool brilliant, smart accountants as easily as -- how can -- actually, there's a point. How can we call Andy an idiot and then simultaneously say he's just hoodwinked the second-largest accountancy in the world with an £8 billion turnover? That doesn't make enormous sense on its own.

Q. But we can call Andy a liar and simultaneously say he's just hoodwinked the second-largest accountancy firm in the world, can't we?

A. Yes, but by doing that, Mr Robins, we would be saying any liar could do that. I'm not sure I can swallow that. Audits are in a place -- look, I understand the points you're making and I am trying my best to sort of leave the room slightly -- put in my head what I knew then. But I just -- I did rely on this. I did think it was good.

Q. You relied on it to sell bonds. You relied on it to justify your pre-existing decision to turn a blind eye so you could carry on getting the money. And that's all.

A. No, Mr Robins. No, sir.

Q. Let's talk about your conversations with Mark. I'll just raise that. We saw before he was always saying to you that, "You are going to have to stop selling when you hit the 75 per cent loan to value mark", wasn't he -- the loan to value point?

A. Right.

Q. "Whatever the security is, we take 75 per cent of that and, if you hit that point" --

A. I think so, yes.

Q. -- "with your bonds, you've got to stop". So we saw the figure in the PwC accounts, 60 million. 75 per cent of that is 45 million, isn't it?

A. Right.

Q. So if there's security of 60 million assets, that's good for 45 million of bonds, isn't it?

A. Okay.

Q. It is not very long after Mark has told you about the PwC accounts that you are getting close to 45 million of bonds; right?

A. Right.

Q. So at that point, Mark is going to say, "Never mind what's in the PwC accounts, they are not sufficient anymore. You have hit the limit, you are going to have to stop"; correct?

A. I'm not sure if he did say that, but quite possibly, yes.

Q. Can we look at <SUR00137316-0001>, please. At the bottom, Steve is saying to Mark, copying you: "Further to our conversation yesterday, please could you forward PC [that's you] a copy of the letter/email you are sending to LCF before you send it." Then Mark replies:

"Of course I would never have sent without showing you. Not sure it should come from me (at Chariot House anyway -- with what authority?).

"Anyway comments first and we can decide how it is sent."

Do you remember Mark saying, "We are close to hitting the limit on the 75 per cent loan to value ratio. We are going to have to stop selling the bonds unless he can satisfy us that there is security above and beyond the last figure we have seen"?

A. I actually don't recall it, but he most likely would have said that. I presume it's attached to this.

Q. The draft is <SUR00137318-0001>. Let me check.

MR JUSTICE MILES: Is this a good moment for the break?

MR ROBINS: It might be.

MR JUSTICE MILES: I should say that I can't actually sit late today, so we are going to have to stop at 4.25 pm.

MR ROBINS: Okay.

(3.15 pm)

(A short break)

(3.20 pm)

MR ROBINS: I found it in another place, <MDR00073897>. This is Mark's letter. He sent it to Andy, he copied you into the email:

"With the unprecedented success of the LCF bonds the director of Surge Financial Limited felt it was a good time to seek clarification of the fair value of the underlying assets securing the bonds ... "LCF's stated policy is to issue bonds up to 75 per cent of the value of the security held. "As at 30 April 2016, the last audited accounts stated that LCF held a lien on assets valued circa £60m. That gives implied security for up to £45m worth of bonds.

"As LCF is virtually at that figure of £45m, in terms of bond notes issued, could you give us an indication of the fair value of assets you currently hold as security against the bonds.

"Obviously we can rely on the audited accounts once they are published but that could be 9 months hence." So what Mark had told you is, "Look, when we hit the £45 million on bonds, it is not going to be possible to say we are relying on PwC accounts, we need Mr Thomson to provide an update". That's essentially what Mark had told you, wasn't it?

A. Yes, I think so.

Q. You knew that he was asking Andy for an update?

A. Yes.

Q. Can we look at <MDR00074462>. This is Andy's reply to Mark, you're copied:

"Thanks for your email, we are always happy to provide security values and the directors don't need to ask formally via yourself we are happy to let them have the detail at any time. As it happens we have just gone through the security values in preparation for our year end and the figures are as follows: loan book £43 million. Verified security value £215 million. Loan to value 20 per cent."

That's copied to you. You would have thought, when you saw that, "Well, hang on a minute, this has gone up by a very large amount. It was £60 million just nine months ago, it's £215 million now. It has been increasing by over £17 million a month in the security figure". You must have thought that was very odd?

A. What was the number nine months prior to that?

Q. 60 million securities, he's now saying it is 215 million. It's gone up by over 17 million a month. You must have thought that's very odd?

A. I don't recall thinking -- I'm suggesting -- I submit to you that this is IOG, International Oil & Gas company, value or something along those lines, which may have done that, perhaps.

Q. You would've thought this is very odd. Borrowers in need of cash willing to pay high rates, yet also able to provide way more security than LCF is actually demanding from them. You must have thought that's very odd?

A. I can't think -- I mean, am I in on that email? I am, aren't I?

Q. Yes.

A. Perhaps -- when is this, February? Sorry, I'm not allowed to ask questions. I believe maybe I'd been to see the IOG thing that we were invited to see with -- Simon Hume-Kendall, Kerry and I went to see them and Goldman Sachs was there. I mean, they were talking hundreds of millions then, Mr Robins.

Q. That's not what I'm asking you about. Let me try to rephrase it. With a loan book of 43 million, which is what it says, on a 75 per cent loan to value, then LCF would demand 57 million of security?

A. Yes.

Q. But Mr Thomson is telling you that he's got almost four times more security than necessary. It is not a 75 per cent loan to value, it is 20 per cent. You must have thought, "This is the usual BS"?

A. Is this audited or just him saying it?

Q. It's just him saying it. You must have thought, "This is almost certainly crap"?

A. I don't think I did. There were lots of other signals that we -- obviously, we are picking 50 emails out of 10,000, we are picking lots of stuff between 2016 -- post 2016, there were so many signals which -- I appreciate that, that it has gone up quite a bit, but I don't think, at the time, that was a flag to me. I thought perhaps the IOG deal -- business they lent to had given them that or one of the other sort of -- you know, that -- I believed in IOG. I had seen it. Someone had pitched it to me. You know, Simon had taken Kerry and I to see Goldman Sachs, to hear all their plans. We felt very comfortable that that was a sort of cracking business. We didn't realise, subsequently, that it would go under.

Q. But it just --

A. It was listed on the stock exchange.

Q. -- didn't make sense. Why on earth would borrowers in dire need of cash give four times more security than the lender was asking for? It is clearly just the usual BS, isn't it?

A. I just don't -- I don't -- I didn't think it was just BS -- the usual BS, Mr Robins.

Q. Your position was, "Look, if he is happy to say it, then although it's almost certainly crap, we can rely on it, we can tell people we relied on it, we can justify our behaviour". That was your view, wasn't it?

A. You're using quite difficult parlance, "behaviour". I did believe we could rely on it, I did. I believed he had great oversight. I keep mentioning them, Lewis Silkin, I'm sure they won't forgive me. But they had great oversight. There were great people involved, way above my pay --

Q. You didn't think Lewis Silkin had verified the security value, did you? Why on earth would you have thought that? That's plainly not what you thought, is it?

A. Well, no, that's true. I didn't think they did. But, you know, Lewis Silkin were there -- he mentions - - we haven't seen much of it here, but he mentions Lewis Silkin all the time. They were clearly working together. They were coming to my office. I just can't see -- I didn't look at that and think it was an issue at the time. Obviously, now, I can see he's just writing it. But, at the time, I didn't believe -- I thought that was good.

Q. You thought it was probably untrue but, if he was happy to put it in writing, that was good enough for you?

A. I mean, we are just sort of forgetting about all the other people around me who had sight of these documents that I don't, who also -- you know, I just thought perhaps they might say something if it was a load of nonsense. I mean, are we saying it's doubled or tripled over a year or something? That's the difficulty that you're pushing at me.

Q. It's gone from 60 to 215 in nine months. You'd got no idea what the security was supposed to be, had you?

A. I did have some idea. I mean, I believed that IOG was one of them and I've said to you, IOG, we went to see them, we liked them, we -- you know, I invested in them. I just thought it was a great underlying asset. I liked the story. Other people invested.

I mean, I can see how you -- you know, because he wrote it now -- in hindsight, with your sort of optics on, that perhaps, you know, we should have -- I just would have taken that as an honest figure and that's it. Because he would have had to justify that at some point, Mr Robins, of course. Because, even if he wrote that, of course, at some point between writing that and it -- there would have been an audit, of course, which would have --

Q. You accept, when you saw "verified security value", you didn't go back to him and say, "Who has verified it? How have they verified it? Give us copies of the verification"? You didn't ask any of these questions, did you?

A. I didn't, no.

Q. By the very next day, at least, you knew this had nothing to do with IOG, didn't you?

A. I don't know.

Q. If we look at <SUR00137494-0001>. Kerry, on the 10th, is emailing you and John Russell-Murphy. We can see that it relates to the proposed IOG bond. She is talking about BP and Schlumberger. She says in the second paragraph:

"They have said that they do not have the assets independently valued. To do this they need competent persons reports at each site and it will take a minimum of five months to get this done (geological studies take time) and actually they might not be able to get it fully complete at some sites where more in-depth tests need to happen/they are more early stage." At the 10th, at least, you knew Andy couldn't be talking about IOG when he said "verified security value" because they hadn't had the assets independently valued yet?

A. Sorry, you were asking me to comment on --

Q. You were saying --

A. Yes.

Q. -- you thought at the time "verified security value" was something to do with IOG?

A. Yes.

Q. On the very next day, Kerry tells you there are no valuations. You can't have thought it was anything to do with IOG, can you?

A. Right. Potentially not. You are correct, yes. I stand corrected.

Q. Can we look at <SUR00137487-0001>.

A. Can I point out, sorry, on that one, Mr Robins, before we leave it, can I make a small point, please, on that information? Kerry says, in the bottom paragraph: "I have stated that it is vital that we can put a value on the security and that it has come from an expert. This cannot be done in a straightforward way but they have many ideas about how to do this. Possibly Lewis Silkin collates the

information from BP ... in to a ... summary ... I am spending Monday with Clint to go through this and other things."

I assume, at this time, she was looking at doing a gas and oil bond. This surely goes some way to -- although there are questions over the sort of security issue, you know, you've got an audit. There's all these big brand names -- Lewis Silkin, BP, Schlumberger. We were kind of in that mind-set at the time, Mr Robins, that there were sort of much bigger --

Q. Let me just ask you a question about that, because Kerry explains, I think, in her interview and her witness statement, that when trying to put together the proposed oil bond, she wanted to see the security documents, she wanted to see the licences over which security had been granted?

A. That's right.

Q. She looked at them, she saw they had expired, she raised that as an issue. As a result, the oil bond never went anywhere. You didn't ask any equivalent questions, see any equivalent documents, in the case of LCF, did you?

A. I genuinely think I didn't have any concerns, Mr Robins, so --

Q. The answer to my question is, you didn't see any equivalent documents in the case of LCF, did you?

A. I don't think I did, no.

Q. Can we look at <SUR00137487-0001>. We see Andy's email at the bottom. That's the one we just saw then. Towards the top, Mark emails you to say "The Banana Republic must have found some black gold". The "Banana Republic" is probably LCF, isn't it?

A. Presumably.

Q. Or Simon and Spencer, something like that?

A. I don't know. But Mark Partridge is off my Christmas list.

Q. At the top, you say:

"Well, [his] neck on the line. I'm happy enough."

A. Yes.

Q. When you say "his", that's Andy, isn't it?

A. Yes, I think so.

Q. So you recognised that he might be lying, you recognised it might be the usual BS. But he was taking the risk. And if he was happy to say it, then you were happy for your staff to repeat it to members of the public. That's what you were saying, wasn't it?

A. I think with some provision to the fact that -- just to put some context around this, because, obviously, it is very difficult for me to -- some context, Mr Robins, is, he said it. But he didn't just -- you know, there are lots of other things going on. He's got Lewis Silkin, barristers, solicitors, PwC. I have -- I know early on people are calling him sort of names and it's childlike, but I just felt he's from a banking background, you know, at some point you have to just accept that things -- you know, that it was. You could see even Mark is saying "must have found some black gold". I think he's referring to --

Q. This is the day before Kerry says there are no valuations. Maybe he thinks that. But the phrase "his neck on the line". If someone puts their neck on the line, they are taking a risk, aren't they? That's what the phrase means?

A. Right, okay.

Q. A train might come along and chop their head off?

A. Yes.

Q. You were recognising that Andy was taking a risk by saying something that might not be true. If it turned out to be --

A. No, I don't agree with that. I think it's --

Q. That's what you are saying, isn't it? You're saying, if it turned out to be untrue, then he will suffer the consequences?

A. Yes.

Q. You felt, for your purposes, you didn't need to go beyond a statement made by a man you didn't trust?

A. Pose that to me again, please, Mr Robins.

Q. For your purposes, you felt you didn't need to go beyond a statement made by a man you didn't trust?

A. With the additional knowledge and understanding of all of the people who had sight of what he was doing -- the borrowers, the connected parties, the -- all the stuff that I knew that other people knew, namely, City lawyers and City accountants, and I was happy with that. I can't say I wasn't. So yes. But I don't --

Q. You accepted earlier you could have gone back to him and said, "Look, you talked about verified security value. Who verified it? When did they verify it? Can you give us the verification?" You were happier to have his statement, even though it was probably untrue, than to pick away at it, weren't you?

A. I mean, I -- in hindsight, I would have gone back and, you know, asked that -- that the documents were sent. But I just genuinely thought that these people have looked at it and that was good. In hindsight, yes.

Q. You didn't want to pick away at it because you didn't want to confirm your suspicion that it was the usual BS, almost certainly crap?

A. I mean, I just -- he's a client. He's using PwC. He's got Lewis Silkin. I just -- even if I had have written to him along those lines, you know, said "Can you send us all the documents?" -- I wouldn't -- I just -- we'd be redoing an entire audit, because I presume an audit isn't just "Send me some documents". I presume an audit is far more sophisticated.

Q. Mark had said! You can't say you are relying on PwC at this point, because we are almost at 45 million", and Andy said --

A. Why can't we rely on PwC?

Q. Mark has said you're almost at 45 million?

A. Right.

Q. You're almost at the 75 loan to value on the 60 million in the PwC accounts?

A. But how does that equate to us not being able to rely on PwC, though?

Q. We have been over this. Because Mark said to you --

A. Okay, yes.

Q. -- "If we are lending at 75 LTV, we have to stop when we hit 45 million".

A. All right, we are trying to just -- maybe -- you know, I can accept that. I mean, we should have asked for more information here on his comment. But I just -- at that stage, I was comfortable. I can't --

Q. You didn't ask for more information because he was a client and the important thing, from your perspective, was that the client kept on paying these ever-increasing commissions to Surge?

A. The commission numbers stayed the same, the amount grew because it became a better product. But, yes, I -- you don't go around to your client, who you think is legitimate and who is doing well, and just go and -- you know, I'm the CEO. My job is to try and keep these relationships in a way which others care less about. Of course, all the emails you have seen to me, where people are calling him various things, they wouldn't be the only people calling people various things. You always have people in companies calling each other puerile names. That's just part of it. I don't read into it quite the scenario that you do now in hindsight, Mr Robins.

Q. By this point, Surge was invoicing LCF on a daily basis, wasn't it?

A. If you say so.

Q. Five days a week?

A. Yes.

Q. We were just looking at 9 February. Let's look at <MDR00003757>. That's all the names of bondholders. If we look at the next page, that's £68,000 on Monday. Sometimes there were two invoices a day, weren't there?

A. I'm not sure. I presume --

Q. If we look at <MDR00004608>, there's one on the 10th. That's for, let's have a look on the next page, £69,000?

A. I think it is pretty standard, though, isn't it, just to invoice regularly?

Q. <MDR00004609>, that's the 10th as well, another £45,000. Sometimes there were three invoices a day; yes?

A. I presume so. Are you suggesting that's unusual then?

Q. I'm just asking you the question. Sometimes there were three invoices a day?

A. Yes, possibly. You will tell me, I'm sure.

Q. Let's look at the next day, <MDR00004605>.

A. I mean, we are in January. We had well over 100 troops then. We were a big machine to feed.

Q. This is January 2018 now, there's £31,000 at the bottom. I think it is <MDR00004606>. The next page. There's another £64,000. I won't show you, but there is another for £30,000. There was just too much money to start asking awkward questions like, who verified, how verified, when verified, let's see the verification. That's why you weren't asking, wasn't it?

A. It is a business and businesses make profit and, once you have connected your product with your market and you've got a good product, this is a -- this is the equation that happens. You make a profit. It is what we did. We were scaling. I mean, I've had lots of companies. I've had hundreds of staff. I've had many failures and sometimes you -- you know, that's the endeavour of a business. The invoicing every day, you know, I don't know why -- I don't remember giving particular instructions or whatever. I don't know why we may have done that.

Q. All the invoices were payable immediately, weren't they?

A. I presume so, yes. You're going to tell me that.

Q. You didn't want to wait a day longer than necessary for the cash, did you?

A. With respect, don't you get paid in advance, on account? We get paid after the event. I mean, that's -- there are different payment terms for different sort of business models. I presume -- I didn't realise that as an issue.

Q. Although you had no idea what the £215 million security was or whether it even existed, you were happy for your sales team to deploy that figure immediately in their efforts to increase conversions, weren't you?

A. Yes, I think so.

Q. You know that the figure of £215 million security was advertised in newspapers?

A. I don't recall if it was or not.

Q. Do you remember the FCA complained because, in the adverts, it said that LCF was regulated by the FCA and the FCA were concerned that this was being used as a positive factor in advertisements in a way that could potentially be misleading?

A. Yes. I mean, there were a lot of those going on, Mr Robins, both from the regulator and various other people, so, yes, that's most likely. I don't remember £215 million sort of number being in a newspaper. But I'm sure, if you have spotted it ...

Q. Let's look at <D7D9-0009136>. If you look at the three black circles, the first on the left, "Value of security £215 million". Do you remember thinking this advert was a bad idea?

A. Yes.

Q. Because you wanted LCF to keep its head under the parapet?

A. Yes, I didn't like the ad at all.

Q. You didn't want a can of worms to be opened?

A. Yes, I would agree with that. Not just that, all the adverts, the FT, the Telegraph, all of the places where Andy wanted to put his advert. We wouldn't have signed this off, Mr Robins, by the way.

Q. You didn't want to draw attention to LCF because you didn't want other people to start asking the awkward questions which you knew existed?

A. No, not because of that. Because I didn't want competitors, I didn't want all the people who would have seen that product. I mean, you don't want -- we were top of Google for very specific terms: best investment rates, best interest rates, best ISA rates, things like that. They are specific people looking for something. The newspaper is -- the amount of people who will have seen this were millions -- well, not millions, enormous numbers.

Q. Too public. You'd rather do it under the radar?

A. No.

Q. But you accept you thought it was a bad idea because a can of worms would be opened?

A. Yes, I was not a fan of putting themselves into the risk of, you know, further regulatory issues. They were always getting regulatory issues. It was just slowing everything down. Blackmore, at this stage -- when was this advert, Mr Robins? Let's have a look at the top there, I can't quite make it out.

Q. I think it is May 2017.

A. Better eyes than me. Yes. At this time, I believe Blackmore Bond had been -- had had an intervention by the regulator to -- no more inflows while they sort of investigated what they were doing. At that time, they had to send a contract and the regulator involved. I didn't want him doing this when they were going through that.

In the end, Blackmore got a letter of no further action from the regulator, which, by the way, saw our contract at 20 per cent and all of that side of things, and I didn't want another client going down that path of being stopped.

You know, that investigation by the regulator took one year and was probably, in my own opinion, why Blackmore Bond failed because if you are building property and you stop your inflows for a year on a five-year bond, you're not going to be able to sort of catch up.

Q. One thing the FCA had a serious problem with was Blackmore wasn't disclosing your 20 per cent commission to the public. Do you remember that?

A. I think it was -- Blackmore did that.

Q. Do you remember all the correspondence with the FCA trying to justify the 20 per cent fee for Blackmore's five-year bond?

A. I don't remember that specific correspondence. I do remember a year's worth of no inflows while they did the investigation, but, yeah, they would have picked apart quite a lot of it before they allowed it to go back live again. I mean, the 25 per cent, I do accept that that should have been in the brochure now, in the IM, and so on. I just -- at the time, I wasn't aware that that was, you know ...

Q. Anyway, you thought advertising was a bad idea because you didn't want anything to slow you down?

A. Yes, that's true.

Q. Surge's profits continued to increase, didn't they?

A. Yes. I think after -- I don't know if this was the second audit but after the first audit with PwC, yes, you'll see from the graph that gave a lot of people the confidence they needed to invest. The brand is strong and --

Q. I'm talking, really, about the 12 months to the end of January 2017. Surge made a post-tax profit of almost £2.5 million, didn't it?

A. Yes, it did.

Q. That was a significant increase from the previous year of only £350,000?

A. Yes, that's also true.

Q. Net assets had gone up from £345,000 to £1.55 million?

A. Right, yes.

Q. Your profits were over £200,000 a month on average over the financial year ending 31 January 2017?

A. Right. Yes, sir.

Q. If we go back to <A3/7>, if we look at that period that I'm talking about, the 12 months ending 31 January 2017, we can see LCF's monthly income had increased significantly month on month over that period, hadn't it?

A. Yes. What period are we discussing, Mr Robins?

Q. The 12 months ending 31 January 2017. 12 months ending where the yellow highlighter has been put.

A. Got you, yes.

Q. So Surge's monthly revenues were increasing month on month in that period?

A. Yes.

Q. And monthly profits increasing month on month in that period?

A. Yes. I think about then we launched our new tech platform as well to reduce sales time from about three and a half weeks through the AML process, manual photographs, to a more digital one which made it a bit quicker and would have increased.

Q. Do you remember, in May 2017, Steve Jones telling you that Surge was averaging net profit of £800,000 a month?

A. No, I don't. Gross profit?

Q. I think it is net. Let's look at <SUR00073567-0001>. I may have got it wrong, but we can check. Steve Jones emails you and he says:

"In summary, over the last 3 months we have averaged net profit of circa £800,000 a month ... "April saw a reduced monthly profit ..." Then he says:

"We are currently on track for net profit in May of £800,000 [per month] (including costs for new office) ..."

He says that if -- is there some more of the email? Towards the bottom, he says:

"In summary, if we hit £7 million in LCF and £2.5 million Blackmore per month, we will hit £1 million a month ..."

He is talking about £1 million net profit a month, isn't he?

A. If you allow me just a minute to work that out, I will be able to tell you. Could you drop it out, so I can have a quick look at -- I think he might be.

Q. He's saying that, with costs pretty much fixed at this point, anything over those figures will translate directly into bottom-line profit figures. So he's saying, if you go to -- if you go to, say, £8 million, LCF, and £2.5 million Blackmore --

A. He's talking about inflows there. I think he's talking about the inflows coming in for LCF --

Q. If you'd got a total between the two clients of 9.5 a month, you're a million a month net profit?

A. Yes, sir.

Q. Because the costs are pretty much fixed at that point, any commission above and beyond what you would be getting on the 9.5 would translate directly into bottomline profit figures?

A. Right.

Q. We saw your witness statement yesterday where you said the percentage of net profits made was not extravagant. It was modest. That's not something you can say with a straight face, is it?

A. I certainly can. When is that date? 2017. Ten years prior to that, in 2007, I was running a company called moneyexpert.com. I was the marketing director of that company, which made 5 million a month.

Q. Just to be clear, you were a director of moneyexpert.com?

A. I was the marketing director. I was not a director.

Q. You were a shareholder?

A. I was a shareholder in trust under Nigel Warr.

Q. You had a beneficial interest in shares?

A. Yes, sir. Yes, that business I drove -- I was the driving force and sort of -- that was ten years before. You know, I've had hundreds of staff, I've built lots of businesses. It's what I do. I can't -- you know, businesses are built to make a profit and I -- as long as they are done legitimately and are above board, which I believed this to be, I just can't sit here and apologise for making money. We would have had years of building and nothing and borrowing and begging. Start-ups are difficult. But I had professionalised what was essentially -- you know, we had an enormous technological platform which allowed people -- if you are taking 10 million a month, Mr Robins, from members of the public online, you have to have a very sophisticated system. You can't just do it on paper like IFAs do it, or used to do it. You need to have a sophisticated anti-phishing device. I built quite a decent level of technology which we were looking to roll out across all of them. It was the rise of that type of technology back in 2017.

Q. In your witness statement, you talk about the Money Saving Expert Forum, don't you?

A. I think I do, yes. I seem to remember.

Q. <C2/3> at page 19. Paragraph 90:

"Around the end of 2017 on Money Saving Expert a comment was made regarding LCF that was brought to Surge's attention by a bondholder. Surge's first step was to get LCF's take on the matter. I recall that Andy was quick in his response, categorically refuting the claims."

Is that your recollection or your reconstruction?

A. I seem to remember that. That's my recollection.

Q. There are two posts. Let me show you what we know about the first <MDR00074512>. Page 2, please. Craig emails John Russell-Murphy and Aaron Phillips: "Afternoon both. Very fresh Money Saving Expert post about LC&F and links to Cape Verde, International Resort Group, et cetera ..."

A. Yes.

Q. On page 1, Aaron forwards that to Ryan. If we go to <MDR00074542>, we can see Jo forwards it to you and you say:

"Let Andy know, please, Jo."

The reason you would have been concerned is because the big secret that this was just a front for lending to something to do with Cape Verde, International Resort Group, was being scrutinised. That was problematic for you, wasn't it?

A. Well, we would -- this wouldn't be on its own, Mr Robins; there would have been others which were brought to our attention, either by bondholders or account managers, or someone, and we would have sent them to Andy. How much to read into it? It is calling it a scam, and I get that, it's mentioning Cape Verde. At this stage -- did I have an audit at this stage by PwC?

Q. That wasn't my question.

A. Sorry, I beg your pardon.

Q. The reason you would have been concerned is because you didn't want the big secret, that this was just a front for lending to something to do with Cape Verde, International Resort Group, coming out. That would have been problematic?

A. The big secret that Lewis Silkin knew, the big secret that PricewaterhouseCoopers knew, the big secret the FCA knew, the big secret -- that secret?

Q. If it came out that almost all of the loan book had been lent to Spencer's tourism and development business, you knew the members of the public you were trying to sell a bond to would run a mile, wouldn't they?

A. I don't believe that. I thought that -- there has to be some --

Q. That's why you didn't want to sell the tourism bond in February 2015. You knew the public wouldn't buy it.

A. I mean, we can go back through that, if you wish, Mr Robins, but I really -- at some point, I would have become comfortable and I can't quite work out the date when PwC began their audit and finished their audit, but that was the moment where cynicism left the building -- well, apart from Mark, for whom cynicism would never leave the building. But for me, certainly. There were a few of

them. I mean, you know, there were a few of these saying it's a scam, and so on and so forth. But how much credibility should I give to anonymous people on the internet versus PricewaterhouseCoopers? With respect, if you go to Kingsley Napley's page, it calls them a scam on their reviews -- no disrespect. But I know them not to be a scam. I have worked with them for five years, a fantastic firm. I think you've got to sometimes -- these flags which now look so apparent and are waved around, I have to -- you know, I don't know what Andy said to that. Perhaps you can show us.

Q. You talk about comments on the internet. You knew that what was being said about the links to Cape Verde and International Resort Group, et cetera, was true, didn't you?

A. I didn't have a concern with it.

Q. But you knew it was true, didn't you?

A. That it was the security for their bond? Is that what you're suggesting?

Q. That LCF had lent to something to do with Cape Verde, to International Resort Group. You knew that these things posted on the internet were true?

A. I didn't -- at some point, I -- I'm not quite sure that it is fair to say that, because a couple of people on the internet said this, that would have raised a flag to us to say it was a fraud. We were pushing for them to have the best auditor in the world check them out. I just didn't dream that that was not going to be the case, that any issue with these rich and successful people, who had been chairmen of BP, or whatever they were, and various other rich and successful people, were going to pull the wool.

Q. We went over this yesterday. Mark emailed you when he saw the Oliver Clive accounts, saying, "The worst news is all of their loan book is lent to Andy Thomson's company". He mentioned IRG. You knew from February 2015 that was the land bank. Your problem was that these things that you'd rather keep under wraps were coming out into public?

A. How about an email from Mark Partridge in 2017 when I say, "Mark, are these accounts good?", and he said, "Very good". How about that email? I know it is not a cynic email but it is a good one.

Q. Had you seen an email in those terms by this point?

A. I'm afraid I can't tell you. My grip on the timeline is nowhere near as good as yours. But I just -- it's the internet, sir. There are people with axes to grind and, frankly, write things constantly, and if you were to believe everything you read on the internet, I think you would have -- you wouldn't go to a hotel, you wouldn't book anything. You know, you could literally find people writing bad things about churches. I mean, it is -- I just -- I'm a bit more seasoned and I expect professions -- the professions to do their job.

Q. Let's look at the next post. This is July. <MDR00093505>. On page 2 is the quote. The member of the public who Scott has been dealing with has very helpfully highlighted the main concerns. If we look at page 5.

A. Is this from me? Is that me?

Q. No, sorry. Let me take it a bit slower. It's the post on Money Saving Expert from July 2017. For example, at the bottom left-hand side:

"It is difficult to find out any evidence for the marketing team claim that LC&F have lent approximately £15 million to approximately 120 small and medium-sized business enterprises ..."

A. Sorry, who wrote this? On the internet?

Q. The person on Money Saving Expert Forum?

A. Okay.

Q. "It is difficult to find out any evidence for the marketing team claim that LC&F have lent approximately £15 million to approximately 120 small and medium-sized business enterprises ..."

You knew that there wasn't any evidence for that because it wasn't true?

A. If I read this -- I'm not sure I did, but I may have done. I'm a little bit more seasoned. Blackmore was called a fraud --

Q. This isn't people making up scurrilous nonsense on the internet. It is people raising concerns about things that have been said to the public that you knew were untrue, isn't it?

A. If we had seen this, which I presume we did, we would have presented it to LCF, Andy in particular, and asked for his comments on it. We wouldn't have just ignored it, Mr Robins. We would have presented it to Andy. But, as I said to you previously, you know, Blackmore went under and everyone called it a fraud. Subsequently, it wasn't a fraud. I just don't allow myself to be convinced as easily as anonymous people on the internet would write. I just don't. I would prefer facts and professions to look at it.

Q. So you say we wouldn't have just ignored it. Can we look at <MDR00093883>. You've seen it. You say: "I agree with Ryan. Replying to these threads provides them authority they don't currently have. Never feed the trolls."

Doesn't "Never feed the trolls" mean "Let's just ignore it"?

A. I think "Never feed the trolls" is a pretty standard, colloquial term people use not to write things on the internet because no-one has ever won an internet argument in the history of the internet.

Q. But the post had raised some serious concerns. For example, you knew that there were not 120 loans. You preferred to ignore that because you didn't want to jeopardise the 25 per cent commission?

A. Did we ignore that, Mr Robins, or did we forward it to -- in your previous email correspondence, it looks like we forwarded it on. I mean, that's not ignoring it. That would be asking for --

Q. I think Jo Baldock sent it to Andy?

A. What did he say in reply? Because we would have sent it and we would have asked him for his account on what that was.

Q. You say in your witness statement:

"I recall Andy was quick in his response, categorically refuting the claims."

A. It might not have been this one. We would have had more. This one was obviously very comprehensive, but some of them were, "Don't touch" -- I remember one that said --

Q. There were two in 2017. We have seen the first and the second?

A. Right. There may well have been more, but yes.

Q. <MDR00094248>. At the bottom of page 1, Jo says: "Hi please see attached from Andy with the answers to our clients concerns. He does not want these sent to the client so I suggest maybe a summary email ..." You forward that, at the bottom left, to Kerry and John, and John replies:

"I will speak with him tomorrow. Scott and I put a response back to one of his clients earlier today as we couldn't wait for Andy to reply. I do agree with Andy on making this an internal document though. He hasn't responded particularly well and we couldn't share the document the way it's written."

Do you see that?

A. Yes, sir.

Q. When you say in your witness statement that Andy -- you recall -- you recall that Andy was quick in his response categorically refuting the claims, that's not your recollection, is it, it's your reconstruction?

A. Well, the first thing to note is, there wasn't just two, so I'm not sure where that's from. There would have been more. There's a few more. And I've never tried to reconstruct things. I have tried to honestly give my account on what I recall. I do have a fallible memory, I'm afraid to admit, and I might not be that sharp with it, but I have tried my best to -- as I said previously, I've got some ironclad views, which I had back then, which I can still recollect very clearly, and I just -- people on the internet write things. You know, I presume -- you could probably find any of these firms in this building and people write terrible things about them, none of which are true, and I -- we present them to Andy and we ask for his comments. I presume -- was his comment the one I saw on the previous page?

Q. His comments are in a separate document that's been forwarded to you.

A. Okay.

Q. It is a lengthy and detailed post. Serious concerns --

A. Yes.

Q. -- properly evidenced. No evidence on 120 borrowers, for example?

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A. Yes.

Q. You knew that Mr Thomson was unable to rebut these concerns because you knew the concerns were valid?

A. Could I submit to you the opposite, that someone has written something that's come to one of my account managers and we have not buried it, we have presented it to Andy and asked him to comment on it and then, perhaps, if we weren't satisfied with that, which I don't think we are here, because someone said it is not very good, we would have gone back -- or I hope someone perhaps would have gone back and asked further questions.

But, I mean, the other option is what? I mean, you know, "Someone has written something bad on the internet, close the doors, lock up, stop". We were looming on an audit -- I can't see the date there, sorry. If there wasn't an audit there, we were looming on one.

Q. That's right, you should have locked up and stopped, shouldn't you, when you first found out you were being asked to present LCF to the public on a false basis? That's when you should have locked up and stopped, isn't it?

A. But I didn't believe I was, Mr Robins.

Q. You knew there weren't 120 borrowers, didn't you? We have been over this.

A. Yes, but, at some point, that was corrected to reflect the reality of the situation. I can see that particular one, which is very extensive, you know, I would have -- you know, I'm pretty sure I would have read that. I mean, I think you've -- you don't just stop. If you get a one star review at a hotel that says, "The food here got me food poisoning", they don't go, "Right. Stop serving breakfast". I mean, you would go to the chef and you would say -- sorry to use an analogy, but you'd go to the chef and say, "What's happened here?", and that's kind of what we're doing.

I mean, I appreciate I knew some of this information, but I was satisfied at the time, not now, and I thought, you know, we were looming or we had just had a PwC audit -- I know you've criticised that audit, but I just can't see -- from my view, I thought that was a good audit from the information I'd had.

Q. Let's pick up your analogy. If you find out the chef is not actually using beef to make his beefburgers, do you carry on selling them to members of the public?

A. Well, that is a good point. No. But you would do what I would do, wouldn't you: you would go to him and say, "People are ordering beefburgers" -- sorry, this is extending this analogy a little far -- "and you're selling them bean burgers. What do you have to say?" You would either be satisfied by his response or you would not.

Q. Or if he's giving you 25 per cent of the price of each burger, you might carry on selling them?

A. Or you might wait for the PwC senior chef to go in and check what's actually going on. I mean, this is getting a bit ridiculous now, isn't it?

I just don't recognise that things get written on the internet, that you suddenly just pull the plug. I think you present them to the person and you would -- in all aspects. Like I say, you go to Kingsley Napley, they're called a scam. I didn't go, "Right. We will deconstruct Kingsley Napley and go with the next firm"; I sort of -- you know, I ignore it because I base it on the experience I have of working with them.

Q. You keep saying I'm trying to belittle it, stuff on the internet. Let's just go back to it for one more piece. <MDR00093505>. Page 7, please.

A. It would be interesting to see what Andy did say to that.

Q. The second main paragraph in yellow: "Unlike other SME business loan providers, there appears to be no available company website interface for LC&F business borrowers to apply for business loans. No physical location other than the Companies House registered office in Tunbridge Wells. No available names of existing SME borrowers. No names of the lending team employees. No lending team employee contact, no phone, no email address for the lending team. To apply for a SME loan you are asked to go through the bond marketing company team which is unusual. No internet searches have been provided any evidence of how the bondholder interest is being paid through SME loan interest, nor is there any such evidence on the LC&F website, nor can the bond marketing team provide such when asked."

Let's go through to see if this is scurrilous nonsense. We know there wasn't a lending site, don't we, because you were trying to set it up but Andy never progressed it; that's right?

A. Yes, that's correct.

Q. There were no available names of any existing SME borrowers, were there, for the public? No-one could find out?

A. That's also true.

Q. There's no names of any lending team employees, because there's no lending team, it's just Andy Thomson?

A. Right, yes.

Q. No lending team employee contact, no phone, no email address for the lending team. That wasn't publicly available anywhere, was it?

A. I don't think so.

Q. You had seen no evidence of how bondholder interest was being paid through SME loan interest, had you? That's not something you had seen?

A. No.

Q. So this isn't just scurrilous nonsense. This is a case of concerns being raised which you knew were valid?

A. I think that is fair. I mean, obviously, in hindsight, it is very fair and this person is, you know, making very fair comment. But I still -- you know, I presume we would have -- Andy would have replied to that and we would have, you know, asked him --

Q. No, not as far as we can see. If Mr Ledgister can find it, he can re-examine you on it. He sends his answers, you think they're terrible and you don't use them?

A. Sorry, we have sent the answers? Is that --

Q. He sent you his answers and, as we saw, John says: "I do agree with Andy on making this an internal document. He hasn't responded particularly well. We couldn't share the document in the way it's written." When you say in your witness statement: "I recall that Andy was quick in his response categorically refuting the claims", that's not actually your recollection, is it?

A. I seem to remember that, yes. I think you might be conflating this with another one. This is actually the first time I recall this. I was thinking about another Money Saving Expert one where they say this is a scam and that was the one I was referring to in my statement. You may have access to that one.

Q. You think you were looking for another occasion. We can --

A. I believe so, Mr Robins, yes.

Q. Let's move on. Do you remember you were asking, say around early March 2017, Mr Thomson for LCF's management account?

A. I don't remember.

Q. Well, he sent them to you, you sent them on to Mark Partridge. Do you remember Mark's response?

A. No.

Q. <SUR00137948-0001>. Mark emails you back to say: "Probably worth jack. No accountants name to it, also some of the figures just look wrong which makes you wonder who prepared. Technically short term insolvent ..."

It is not reassuring for your accountant to be telling you that the bond-issuing company's accounts tell you it is technically insolvent, is it?

A. No, sir.

Q. He says:

"If you did want to ask the question it would be -- can you confirm that LCF can meet its short-term liabilities ie those due within 1 year? Because the balance sheet suggests it can't by £7m." That's not reassuring, is it?

A. No. Is this before the PwC audit or after? It is before, isn't it?

Q. This is after. This is a few months after.

A. Right.

Q. So you have asked Andy and he's given you a verified security value of 215 --

A. So this is a comment on that email about --

Q. No, a comment on some subsequent management accounts Andy has sent to you.

A. Okay.

Q. If we look down the page and over the next page, Andy has sent you management accounts. He says they show a significant jump. You sent them on to Mark. He said, "Probably worth jack ... Technically short-term insolvent [by 7 million]." That's not something that would have reassured you, is it?

A. Well, no, of course. But I'm presuming that we have had a PwC audit that Mark has then replied to and said "Very good" after that. I mean, obviously, I appreciate you're picking out --

Q. Mark's concern about PwC -- we have been over it -- is that it's 60 million and now the bonds have broken through the 45 million barrier, isn't it?

A. That's right.

Q. This isn't something that would have reassured you, is it?

A. No, sir.

Q. But your determination to succeed would not allow you to be slowed down?

A. You're talking about an email. I would have spoken to Mark a lot. We were friends. He was in my office. I really wish he had been a witness today. He would have -- despite this cynicism, he was comfortable at some point -- perhaps, obviously, after this -- with LCF. He was. And, you know, there's plenty of other positive emails where he is. I presume these accounts that Andy sent are just ones

that Andy has made because they're management accounts and they're not from PwC. They are just --

Q. Mark says "No accountants name to it" so you know that they're --

A. Okay.

Q. There's no accountant's name to it.

A. Right.

Q. Your determination to succeed meant that you were not prepared to be slowed down?

A. I was comfortable that the product was the best bond in the market, Mr Robins.

Q. Well, it was easy to sell, wasn't it, with 8.5 per cent on a three-year term and all this talk about £215 million assets of security --

A. The security debt --

Q. -- to borrowers. Easy to sell. That's what you mean when you say "good", isn't it?

A. Yeah, I think the security was by far the best, most prominent part of that business, yes.

Q. Most prominent part of selling the bond?

A. Yes, sir.

Q. But your accountants told you that it's technically short-term insolvent by 7 million according to its management accounts. Your determination to succeed would not allow you to be slowed down, would it?

A. I would have discussed this with him or other people.

Q. Would you agree, as a general observation, you need people to understand your determination to succeed will not allow you to be slowed down?

A. Shall we have a look at the email, Mr Robins.

Q. It is a fair comment, isn't it? It is just a question?

A. Yes, I won't allow people to slow me down, Mr Robins.

Q. You won't allow any obstacle to slow you down, will you?

A. I presume you're about to show me something cringeworthy --

Q. I'm just asking a question. Your accountant saying they are technically short-term insolvent by 7 million is not the sort of thing that you would allow to slow you down?

A. I don't think conflating my sort of mental mind-set to drive business and my sort of -- my innate drive to -- it is fair to conflate that with "We will just run roughshod over whatever PwC or Ernst & Young say". I thought he had the best bond in the market. I thought we were partnering with a great operation. I told you we were in big meetings with all these firms. I thought we were doing well. I didn't -- you know, I hire Mark because he's a cynic. It would be much easier, if I wanted to commit fraud -- or turn a blind eye to fraud, I mean, to not hire Mark. I expect him to challenge me. And if I am not -- I presume that perhaps something here would have gone to Andy and we would have -- if

Andy sent these management accounts to Mark, I'm presuming Mark would have gone back and questioned them.

Q. Is that your evidence or something that fits neatly with your reconstruction?

A. I believed at the time that this was a bona fide product and I thought, with the best accountants and solicitors in the world, I had some faith in those. I can tell you it's quickly faded though. I just didn't believe -- you know, I believed that they had a proper, decent product. I mean, you know, people in the company invested in LCF, I invested in their underlying borrower after it all went wrong, IOG, as lots of other people did, it just didn't -- which then obviously went to the wall for all this fraudulent stuff.

But I just don't recognise the fact that you can say my innate drive is my drive to -- you know, if I can't rely on these auditors, you know, I don't know where else I could have relied on.

Q. You didn't use any of the profits from LCF to buy 8.5 per cent LCF bonds, did you?

A. No, but I did use some of my profit to invest in four further start-ups with --

Q. Was that my question?

A. No, it wasn't, but it's -- it gives you some colour that I invested millions into --

Q. Invest in anything other than LCF?

A. I beg your pardon?

Q. So you invest in other things, but not LCF?

A. I invested in a number of start-up businesses which were at my offices which I'm driving forward.

Q. But 8.5 per cent in a world of low interest rates, if you thought it had been legitimate, surely you would have put some of your vast profits into LCF bonds?

A. I didn't, but some account managers did. I had other intentions. I wanted to build other profitable businesses.

Q. You knew things that they didn't know?

A. No, that's not just true. All of the account managers, 40-odd account managers, would have probably read the internet link that you provided earlier. I mean, there were over 100-and-something people in that building. I mean, it is just --

Q. We saw Kerry's email yesterday:

"Crucially all 80 loans are to Spencer-related businesses".

Do you remember the first paragraph saying, "This is in confidence to a small group of people, don't share it with the account managers"? There were things that you knew that your team didn't know, weren't there?

A. I presume so, yes.

MR ROBINS: My Lord, I don't know if that would be a convenient moment for your Lordship?

MR JUSTICE MILES: Yes. Any points on timing?

MR ROBINS: On timing, I have done reasonably well recovering the lost ground. I would hope to be finishing at some point in the middle part of tomorrow afternoon, unless there is anything else to slow us down.

MR JUSTICE MILES: Do you have any questions?

MS DWARKA: I do, my Lord. I expect it to be 10 minutes.

MR JUSTICE MILES: All right. Any idea -- I know -- I don't want to pin you down, Mr Ledgister?

MR LEDGISTER: A couple of minutes, my Lord. It won't be very long.

MR JUSTICE MILES: So we should finish within the usual hours tomorrow.

MR ROBINS: If I take a tiny bit longer, it is not going to be a disaster.

MR JUSTICE MILES: No, but we must --

MR ROBINS: Absolutely. I'm not going to run --

MR JUSTICE MILES: -- finish --

MR ROBINS: We will finish tomorrow, definitely.

MR JUSTICE MILES: Good. Okay.

(4.27 pm)

(The hearing was adjourned to Thursday, 2 May 2024 at 10.30 am)

Transcript originally produced by:

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

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Investor names and contact information have been redacted