

Applicants
Edward John Macnamara
Seventh Witness Statement
Exhibit EJM-7
7 November 2023

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

CR-2008-000023

IN THE MATTER OF LB UK RE HOLDINGS LIMITED (IN ADMINISTRATION)
AND IN THE MATTER OF THE INSOLVENCY ACT 1986

SEVENTH WITNESS

STATEMENT OF

EDWARD JOHN MACNAMARA

I, **EDWARD JOHN MACNAMARA** of PricewaterhouseCoopers LLP, 7 More London Riverside, London SE1 2RT, state as follows:

A. INTRODUCTION

- 1** I am a licensed insolvency practitioner and a partner at PricewaterhouseCoopers LLP (“**PwC**”), a professional services firm of the above address.
- 2** Dan Yoram Schwarzmann (a partner at PwC), Gillian Eleanor Bruce, David James Kelly (who is also a partner at PwC) and I (the “**Administrators**”) are the joint administrators of LB UK RE Holdings Limited (in administration) (“**LBUKRE**”).
- 3** I am duly authorised to make this witness statement on behalf of the Administrators.
- 4** There is now shown to me a paginated bundle of copy documents, marked “**EJM-7**”, to which I refer in this witness statement. References to exhibit EJM-7 are in the format **EJM-7/tab/page number**.
- 5** Where no cross reference to the paginated bundle is provided and where there is no other indication of the source of my information or belief, the contents of this witness statement are derived from facts and matters which are within my own knowledge and belief. These

facts and matters have been learned either as a result of the work undertaken by me as one of the Administrators, or they have been provided to me either by my colleagues at PwC involved with the administration of LBUKRE, or by the employees or former employees of the Lehman Group who are still available to the Administrators, or by the Administrators' legal advisers.

- 6** This witness statement has been prepared through the exchange of emails and telephone meetings between me, my colleagues at PwC and Linklaters LLP (legal advisers to the Administrators). Whilst I have been assisted in preparing this witness statement by Linklaters LLP, nothing in this witness statement is intended to waive, or is to be read as waiving, any privilege in any legal advice received by me.
- 7** I make this statement in relation to the Administrators' adjourned application for an order fixing the time for the Administrators' discharge from liability under paragraph 98(1) of Schedule B1 to the Insolvency Act 1986 (the "**Act**") in respect of any act or omission in their individual capacities as Administrators of LBUKRE, pursuant to paragraph 98(2)(c) of Schedule B1 to the Act (the "**LBUKRE Discharge Application**").
- 8** The remainder of this witness statement is structured as follows:
- (i) **Section B** records the background to the LBUKRE Discharge Application, which the Administrators now seek to restore;
 - (ii) **Section C** provides an update as to the resolution of the matters arising out of LBUKRE's correspondence with HM Revenue & Customs ("**HMRC**") since the hearing of the Administrators' application for an extension to their terms of office in May 2023;
 - (iii) **Section D** explains the final matters to be resolved in the Administration, and that LBUKRE is now in a position to make the final cash distribution to the LBUKRE's one remaining creditor and give notice pursuant to paragraph 84(1) of Schedule B1 of the Act;
 - (iv) **Section E** describes the notice that has been given to interested parties of the LBUKRE Discharge Application; and
 - (v) **Section F** updates the Court on matters relevant to the LBUKRE Discharge Application.

B. BACKGROUND TO THE RESTORED APPLICATION

- 9** I have given two witness statements in relation to the LBUKRE Discharge Application:
- (i) first, a witness statement dated 1 November 2022, filed in support of the LBUKRE Discharge Application (the "**November 2022 Witness Statement**"). That

statement outlined in broad terms the general progress the Administrators had made at that time to achieve the purpose of the administration, and the manner in which all of the issues in the administration had then been resolved (save for resolving the tax position of LBUKRE with HMRC, which I refer to below); and

- (ii) second, a witness statement dated 11 May 2023, filed in support of the Administrators' application at that time for a six-month extension to the term of their administration (the "**May 2023 Witness Statement**"), which explained that the Administrators did not pursue the LBUKRE Discharge Application at that stage.

10 As I explained in my November 2022 Witness Statement, the Administrators made the LBUKRE Discharge Application at the same time as they applied for an order for a six-month extension of their terms of office. The Administrators sought such an order fixing time for their discharge at that juncture, given that the substantive matters in the administration were substantially complete, and to militate against the need for a further application on a subsequent occasion, with attendant further costs to the estate.

11 The Court preferred not to make the order sought at that stage and directed that the application should be stood over to be restored to the Court not earlier than 10 days prior to the date on which the administration of LBUKRE is due to end (or, if earlier, the date on which the Administrators propose to give a notice pursuant to paragraph 84(1) of Schedule B1 to the Act and dealt with on the papers).

12 The Court explained its approach at paragraph 102 of its judgment dated 22 November 2022. At that stage, the Court:

"...[directed] that the application should be stood over to be restored to the Court and dealt with on the papers. In my judgment, unless there is some change in circumstances, the court is then very likely then to make the usual order. Any supporting Witness Statement can, I should have thought (and Mr Perkins was inclined to agree) be very short, and the position can briefly be explained by reference to what by then will be the Administrators' latest and last progress report. Assuming that I shall still be the assigned judge I can of course be reminded of my disposition to make the order at that time, absent significant change in circumstances".

13 In the event, by May 2023, and as I explained in the May 2023 Witness Statement, the Administrators had not yet received HMRC's confirmation that it agreed with the Administrators as to LBUKRE's tax position. Accordingly, the Administrators sought a further six-month extension to their terms of office. By order dated 24 May 2023, the Court extended the term of the Administration until 30 November 2023.

14 As I explain below, the Administrators have now received tax clearance from HMRC and are now in a position to make a final distribution to LBUKRE's sole remaining creditor and bring the administration to an end.

15 Accordingly, the Administrators now seek to restore the LBUKRE Discharge Application.

C. HMRC HAS GIVEN TAX CLEARANCE

16 As I explained in my May 2023 Witness Statement, the Administrators have been attempting to resolve the outstanding tax matters and agree tax clearance with HMRC.

17 On 3 July 2023, representatives of the Administrators met with HMRC to discuss tax clearance for LBUKRE.

18 Following that meeting, by letter dated 2 August 2023, HMRC confirmed that it does not intend to raise any further queries in relation to LBUKRE's tax affairs and does not have any objections to the company being dissolved. HMRC's letter is exhibited at **EJM-7/1/1**.

D. FINAL MATTERS IN THE ADMINISTRATION

19 Now that the Administrators have obtained tax clearance from HMRC, the Administrators are now in a position to make a cash distribution to LBUKRE's one remaining creditor.

20 The Administrators' progress report for the reporting period ended 14 September 2023 outlines the steps the Administrators have taken since the most recent progress report dated 12 April 2023, and the steps the Administrators intend to take to bring the Administration to a close. I exhibit that progress report, which is the Administrators' thirtieth progress report, at **EJM-7/2/2-12**.

21 I also exhibit the Administrators' draft final progress report at **EJM-7/3/13-24**, for the period from 15 September 2023. The Administrators intend to publish their final progress report once they have made a final distribution and are ready to give notice pursuant to paragraph 84(1) of Schedule B1 to the Act that LBUKRE has no property which might permit any further distributions to creditors.

E. NOTICE OF THE LBUKRE DISCHARGE APPLICATION

22 On 18 October 2022, the Administrators published a notice on the LBUKRE administration page of the PwC website (the "**LBUKRE Webpage**"). That notice advised creditors that the Administrators intended to apply for orders extending their term of office until 31 May 2023 and fixing the time for their discharge to take effect shortly thereafter.

23 On 3 May 2023, in advance of the Administrators' most recent application for an extension to their terms of office, the Administrators published a further notice to the LBUKRE

Webpage. That notice explained that the Administrators intended to seek a six-month extension to their term of office in order to resolve the tax position with HMRC, pay a final dividend to LBUKRE's creditor and bring the administration to an end.

- 24** Most recently, on 9 August 2023, the Administrators published a notice to the LBUKRE Webpage, which explained that the Administrators have obtained tax clearance from HMRC and now intend to restore the LBUKRE Discharge Application. This notice is exhibited at **EJM-7/4/25**).
- 25** Posting information on the administration website is the method by which the Administrators have generally communicated with LBUKRE's creditors during the course of the administration, save where some other statutorily stipulated method applied.
- 26** In their most recent progress report, the Administrators advised creditors that the Administrators intend shortly to apply to Court to specify the time at which their discharge from liability, pursuant to paragraph 98 of Schedule B1 to the Act, shall take effect.
- 27** As of the date of this witness statement, no person has raised any objection, or otherwise indicated an intention to oppose the present application.

F. MATTERS RELEVANT TO THE LBUKRE DISCHARGE APPLICATION

- 28** I confirm it is still the case that, as I explained in my November 2022 Witness Statement, neither I nor the other Administrators are aware of any potential claims arising out of our conduct as Administrators of LBUKRE, nor are we aware of any facts or matters which we considered could give rise to such claims.

Conclusion

- 29** In light of the facts and matters set out above, the Administrators respectfully request that the Court fix the time of their discharge on the terms sought.

STATEMENT OF TRUTH

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

Signed: 

Edward John Macnamara

7 November 2023