Neutral Citation Number: [2024] EWHC 1508 (Ch)

Case No: BL-2022-000651

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

Royal Courts of Justice, Rolls Building
Fetter Lane, London, EC4A 1NL

Date: 26/6/2024

Before:

MASTER CLARK

- -

Between:

VE VEGAS INVESTORS IV LLC **Claimant**

- and -

(1) EVELYN PARTNERS LLP
(formerly known as SMITH & WILLIAMSON LLP)
(2) HENRY SHINNERS
(3) FINBARR O'CONNELL
(4) COLIN HARDMAN
(5) MARK FORD
(the former joint administrators of VE INTERACTIVE LIMITED) **Defendants**

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Barry Isaacs KC and **Lloyd Tamlyn** (instructed by **Clarion**) for the **Claimant**
David Turner KC and **Tom Shepherd** (instructed by **Clyde & Co LLP**) for the **Defendants**

Hearing date: 21 May 2024

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Approved Judgment

This judgment was handed down remotely at 10am on 26 June 2024 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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Master Clark:

1. This is the defendants' application dated 20 February 2024 seeking to strike out parts of the claimant's statements of case under CPR 3.4(2) (a) and/or (b).

2. The parties and the claim are described in my judgment dated 27 July 2023 ("the first judgment")

3. That judgment and this application arise out of the particulars of breach of duty made in paragraphs 37 and 40 of the particulars of claim ("PoC"):

> "**D. BREACHES OF DUTY BY SW**
> 37. In acting as pleaded above between 10 April 2017 and 25 April 2017, SW breached the duties as pleaded above.
>
> Particulars of breach of duty
>
> (1) failing to obtain an independent valuation of the Business;
> (2) failing to require the Company to provide and/or to obtain from the Company accurate and/or up-to-date and/or sufficient information such that adequate marketing of the Business could commence on 13 April 2017 or shortly thereafter;
> (3) failing to require the Company to provide and/or to obtain from the Company or at all sufficient information about the identity of potential purchasers of the Business (including, but not limited to, those who had invested in the Company in March 2017 (including Mr Astrachan, Mr Binion and Mr Ranson), the Clerkenwell Consortium and the larger and more wealthy shareholders, referred to in the "Ve Fund Raising Overview 18 April 2017" pleaded at paragraph 18.1 above), the principals of LLC, minority owners of the Company's subsidiaries, the Company's operational partners, participants in the same or similar businesses as the Company's, and investors therein, and private equity and venture capital companies) ("**Potential Purchasers**);
> (4) failing to identify **Potential Purchasers**;
> (5) failing to require the Company to provide copies of proposals (such as the Dial Proposal) which were made for investment in the Company; and of communications between the Company and shareholders relating to potential investment in the Company;
> (6) failing to market and/or to cause the Company to market the Business to **Potential Purchasers**;
> (7) failing to carry out the steps SW had identified in the Timeline in accordance with the Timeline or at all, including failing to prepare, agree or issue a teaser document whereby the Company might have been marketed to **Potential Purchasers**, failing to prepare or cause the Company to prepare a dataroom for **Potential Purchasers**, and failing to test the market;
> (8) failing to access market research so as to identify **Potential Purchasers**;

(9) failing to instruct a business valuer or other intermediary to identify **Potential Purchasers** and/or to market the Business;
(10) failing to proceed with and/or to ensure that the Company proceeded with an adequate marketing process for the sale of the Business on 13 April 2017 or at all;
(11) failing to form an independent view as to the appropriate marketing process for the sale of the Business;
(12) failing to require the Company to provide and/or to obtain from the Company in a timely fashion or at all accurate and/or up-to-date and/or sufficient information (including the reviews, plans and forecasts referred to in the 4 April Update and at paragraphs 18.1 and 27.2 above) to enable **Potential Purchasers** to bid for the Business at a level which reflected its true value and/or to assist SW in considering, investigating and pursuing whether steps could be taken to enable the Company to trade for a short period;
(13) failing to identify and/or consider adequately or at all Mr Barrowman's and/or Mr Pearson's interests in and connections with Rowchester and/or the conflicts between the duties they owed to the Company and their interests in purchasing the Business;
(15) allowing Rowchester to be in and/or failing to ensure that Rowchester was not in a preferential position (in relation to, among other things, its access to information about the Company and the Business, and the process relating to the pre-packaged sale of the Business) vis-à-vis other **Potential Purchasers**;
(16) failing to consider, investigate or pursue whether steps could be taken (including but not limited to negotiating with suppliers of essential services to the Company) to enable the Company to continue to trade for a short period and to allow a sale of the Business for its true value."

"**F. BREACHES OF DUTY BY THE ADMINISTRATORS**

40. In acting as pleaded above the Administrators breached the duties as pleaded above.

Particulars of breach of duty

(1) failing to obtain an independent valuation of the Business;
(2) failing to obtain sufficient information such that adequate marketing of the Business could be carried out;
(3) failing to identify **Potential Purchasers** and/or to market the Business to **Potential Purchasers**;
(4) failing to require the Company to provide copies of proposals (such as the Dial Proposal) which were made for investment; and of communications between the Company and shareholders relating to potential investment in the Company;
(5) failing to carry out the steps SW had identified in the Timeline in accordance with the Timeline or at all, including failing to prepare or issue a teaser document whereby the Company might have been marketed to **Potential Purchasers**, failing to prepare a dataroom for interested parties and failing to test the market;

(6) failing to access market research so as to identify **Potential Purchasers**;
(7) failing to instruct a business valuer or other intermediary to identify **Potential Purchasers** and/or to market the Business;
(8) failing to pursue the offer of third-party funding of £3,000,000 to enable the Company to continue to trade for a short period and to allow a sale of the Business for its true value;
(9) failing to consider, investigate or pursue whether other **Potential Purchasers** would provide funding and/or whether other steps could be taken (including but not limited to negotiating with suppliers of essential services to the Company) to enable the Company to continue to trade for a short period and to allow a sale of the Business for its true value;
(10) failing to obtain sufficient information about the identity of **Potential Purchasers**;
(11) failing to carry out an adequate marketing process for the sale of the Business;
(12) failing to form an independent view as to the appropriate marketing process for the sale of the Business;
(13) failing to obtain in a timely fashion or at all accurate and/or up-to-date and/or sufficient information (including the reviews, plans and forecasts referred to in the 4 April Update and at paragraphs 18.1 and 27.2 above) to enable **Potential Purchasers** to bid for the Business at a level which reflected its true value and/or to assist the Administrators in considering, investigating and pursuing whether the Company might continue to trade for a short period;
(14) failing to cause the Company to sell its right, title and interest in the Representative Agreement;
(15) failing to identify and/or consider adequately or at all Mr Barrowman's and/or Mr Pearson's interests in and connections with Rowchester and/or the conflicts between the duties they owed to the Company and their interests in purchasing the Business;
(16) allowing Rowchester to be in and/or failing to ensure that Rowchester was not in in a preferential position (in relation to, among other things, its access to information about the Company and the Business, and the process relating to the pre-packaged sale of the Business) vis-à-vis other **Potential Purchasers**;
(17) selling the Business at an undervalue;
(18) in the premises, failing to market and/or and sell the Business to the standard expected of a reasonable insolvency practitioner."

(emphasis added)

4. The alleged consequences of those breaches are set out at paras 41 and 42 of the PoC:

> "41. If SW and/or the Administrators had complied with their duties, the Administrators would have sold the Business for its true value.

42. In any event, and in the alternative to paragraph 41 above, by reason of SW's and/or the Administrators' breaches of duty, the Company lost the chance of a sale of the Business for its true value."

5. On 29 July 2022, the defendants made a Request for Further Information ("the July 2022 Request") which included the following Request (4) for information in respect of paras 37(3) and (4) of the PoC:

> "4. Please identify by name which specific individual(s) or entity(ies):
> (1) Would have purchased the Business for the alleged "true value" of £107 million or £126 million; alternatively
> (2) In respect of whom it is alleged there was a substantial chance of them making such a purchase.
>
> 5. Of the specific individual(s) or entity(ies) identified in response to Request 4 above, please state:
> (1) When SW should have identified that individual or entity as a potential purchaser;
> (2) What specific steps SW should have taken which would have led to that individual or entity being identified;
> (3) When that individual or entity would have purchased the Business; and
> (4) How that individual or entity would have funded the purchase of the Business."

6. The claimant's responses to the July 2022 Request were on 2 November 2022 ("the November 2022 Replies"). Its response to request 4 was:

> "The Claimant's claim does not require it to identify such specific individuals or entities. By reason of the Defendants' breaches of duty, the Business was not properly marketed and as a result the Claimant does not know who would have purchased the Business for its true value (or in respect of whom there was a substantial chance they would have purchased the Business for its true value). The Claimant need only prove (i) the existence of a market for the Company's business (in which case the true or market value of the Business would have been paid, had the Business been properly marketed); or (ii) that there was a substantial chance that a purchaser would have paid true value (had the Business been properly marketed). In proving these matters, the Claimant does not need to identify any specific individual(s) or entity(ies) which would have paid true value, nor that there was a substantial chance of them paying true value."

7. In their letter dated 14 December 2022, the defendants' solicitors made the following complaint about that response:

> "it is necessary for your client to identify the specific identities of the alleged Potential Purchasers, so that your client's case can be tested. If your clients cannot, in 2022, identify who the Potential Purchasers were, they would have no business complaining that our clients were negligent in failing to identify them in

> 2017; further, your clients would have no basis for the claim that any one or more of the Potential Purchasers would have paid £126m (or any other sum) for the Business or that there was a real chance of them doing so. Further, unless and until each of the Potential Purchasers is adequately identified, it is not possible to evaluate how (and whether) our clients should have identified that individual in 2017."

8. On 13 February 2023, the claimant served amended Replies ("the February 2023 Replies") to the July 2002 Request, including expanded responses to requests 4 and 5.

9. These amended responses identified many more persons and business entities as Potential Purchasers ("PPs"), divided into 2 categories:
   (1) PPs in respect of which information as to their identity should have been required and/or obtained from the Company;
   (2) PPs whose identity would not or might not have been provided by or obtained from the Company itself.

10. The first category comprised both named persons or entities, and descriptive categories e.g. minority owners of the Company's subsidiaries. This prompted the defendants' application dated 8 March 2023 ("the first application"). In it, they sought to require the claimant to identify all PPs it relied upon, and to preclude it from relying upon categories of PPs. I note that the defendants did not seek to strike out any passages in which individual PPs had been identified.

11. The first judgment determined that application. I decided that if and to the extent that the claimant relied upon individual PPs additionally to those already pleaded, it must identify them in its statement of case. The defendants abandoned (in the course of the hearing of the first application) that part of it which sought to prevent the claimant from relying on categories of PPs. The claimant is not therefore restricted to a closed list of individuals, and remains entitled to rely upon descriptive categories of PPs.

12. This outcome was reflected in my order dated 27 September 2023 at para 1:

> "If and to the extent that the Claimant relies upon any specific individual or entity (as opposed to a category) as being one of the "Potential Purchasers" (as defined at paragraph 37(3) of the Particulars of Claim), and such specific individual or entity is not already identified in the schedule to this order (the Schedule), the Claimant shall by 4pm on 25 October 2023 identify by name any such specific individual or entity."

13. The schedule to that order ("the Schedule") included the names of all the persons or entities alleged to be PPs in the PoC, Reply and the February 2023 Replies – 48 in total.

14. On 25 October 2023, the claimant served a list ("the List") pursuant to paragraph 1 of the order of 27 September 2023. This comprised a total of 292 persons and entities. There is some limited overlap between the List and the Schedule. Thus, the List includes:
    - the Binion family
    - the Clerkenwell Consortium
    - individual members of that Consortium including Andy Astrachan, Christopher Ranson and Charles Allard

    whilst the Schedule includes
    - Mr Jack Binion
    - Mr Astrachan
    - Mr Ranson
    - Mr Allard

    and should have included the Clerkenwell Consortium because this is referred to in the February 2023 Replies.

15. This overlap was, in my judgment, plainly an oversight or error: the Schedule was intended to list all persons or entities who had been identified in the statements of case served to date; whilst the purpose of the List was to identify only those additional persons or entities not yet identified on which the claimant wished to rely.

16. On 3 November 2023, the defendants served a further RFI ("the November 2023 Request"). This relevantly included requests 3 and 4. The claimant's Replies were dated 24 November 2023 ("the November 2023 Replies"):

> "Look also at the Particulars of Claim
>
> **Under paragraph 37**
>
> Of: "... SW breached the duties as pleaded above.
>
> Particulars of breach of duty
>
> …
> (4) failing to identify Potential Purchasers;…"
>
> **Request**
> 3 Please confirm whether it is alleged that the First Defendant should have identified each and every one of the so-called "potential purchasers" identified in the List. If it is not so alleged, please specify which of the so-called "potential purchasers" identified in the list should have been identified by SW.
>
> 4 In respect of each so-called "potential purchaser" identified in the List whom it is alleged should have been identified by SW, please specify when

and by what means it is alleged that SW should have identified them as a potential purchaser.

Replies

3 The Claimant alleges that the First Defendant should have identified each of the persons in the List or in any event the vast majority of them. The Claimant is unable (by reason of the Defendants' breaches of duty), and is in any event not obliged, to plead whether the First Defendant should or would have identified "each and every" person identified in the list had the Claimant discharged its duties to the Company. Had the First Defendant discharged its duties to the Company, the First Defendant may also have identified Potential Purchasers beyond those named by the Claimant.

4 The Claimant's case is adequately and sufficiently pleaded: see in particular Particulars of Claim paragraphs 37(2)-(11) and the Claimant's Amended Replies dated 13 February 2023 ("Replies") to the Defendants' Requests for Further Information, Replies 4, 5, 11 and 14-15.
A copy of the List is attached hereto under headings, thus:
(i) members of syndicates represented by Mr Astrachan;
(ii) members of the Clerkenwell Consortium;
(iii) larger and more wealthy shareholders;
(iv) the principals of LLC;
(v) minority owners of subsidiaries of the Company;
(vi) operational partners of the Company;
(vii) participants in the same or similar businesses as the Company's and/or entities which might achieve a synergy by acquiring the Business (including Digital Agencies, Audience Insights and Testing, Personalization, Customer Data Platform and Customer Data Management, MarTech Platforms, Ad Tech and Delivery, Video and Social Advertising, Customer Journey Analytics and Ecommerce Platforms);
(viii) private equity and venture capital companies and similar financial investors (including JP Morgan, omitted from the original List).
The List as attached omits 3 persons (A Hobbs, Chris Akers, and W Benson) who were included in the List."

17. The claimant served a revised List of the Potential Purchasers ("the Revised List") attached to its November 2023 Replies. This grouped the PPs under the categories set out in its reply to request 4.

Defendants' application

18. The defendants'' application as issued sought:

"An Order that:
(1) Insofar as the Particulars of Claim (as further particularised by the List, the RFI Response and the Revised List) assert a failure by the Defendants to identify or market or cause the marketing of the Business (as defined in paragraph 14.2.2 of the Particulars of Claim) to any specific individual or entity alleged to have been

one of the " Potential Purchasers" (as defined in paragraph 37(3) of the Particulars of Claim), any such claim shall be and hereby is struck out pursuant to CPR Part 3.4(2)(a) and/or 3.4(2)(b)."

19. The passages to be struck out were not identified in the application notice. They were provided under cover of the defendants' solicitors' letter dated 23 February 2024, by providing marked-up copies of:
    (1) the PoC;
    (2) the November 2022 Replies;
    (3) the February 2023 Replies; and
    (4) the November 2023 Replies.

    The defendants also contended in that letter that the List and the Revised List should be struck out in full.

Legal principles

20. CPR 3.4(2) provides, so far as relevant:

> "3.4— Power to strike out a statement of case
> (2) The court may strike out a statement of case if it appears to the court–
> (a) that the statement of case discloses no reasonable grounds for bringing …the claim;
> (b) that the statement of case is an abuse of the court's process or is otherwise likely to obstruct the just disposal of the proceedings;"

21. For present purposes, it is sufficient to gratefully adopt the summary of the relevant principles by Joanna Smith J in *Ashraf v Lester Dominic Solicitors* [2023] EWHC 2800 (Ch) at paras 68-76.

22. To this must be added:
    (1) Where a statement of case is found to be defective, the court should consider whether that defect might be cured by amendment and, if it might be, the court should refrain from striking it out without first giving the party concerned an opportunity to amend: *In Soo Kim v Youg* [2011] EWHC 1781 (QB)); referred to in para 3.4.2 of the 2024 White Book.
    (2) In sub-rule (b), "obstruct" means "impede to a high extent": *Wurm v Armani* [2023] EWHC 3358 (Ch) AT [10]; and 2024 White Book at para 3.4.17;
    (3) An abuse is not of itself sufficient to justify striking out. The discretion to strike out must be exercised in accordance with the overriding objective, and the proportionality of the sanction is a very important factor: see *Walsham Chalet Park Ltd v Tallington Lakes Ltd* [2014] EWCA Civ 1607;

(4) In many cases there will be alternatives which enable a case to be dealt with justly without taking the draconian step of striking the case out, which should be a last option: *Biguzzi v Rank Leisure Plc* [1999] 1 W.L.R. 1926; [1999] 4 All E.R. 934.

Grounds of the application

23. The grounds of the application are set out in the defendants' solicitors' letter dated 26 January 2024, exhibited to the 1st witness statement dated 20 February 2024 of the defendants' solicitor, Rowena Lewis in support of the application.

24. The primary ground is that the first part of second sentence of Reply 3:
    (1) is inconsistent with the first sentence and paragraphs 37(4) and 40(4) of the Particulars of Claim;
    (2) fails to inform the defendants of the claimant's case as which of the PPs should have been identified by them;
    (3) as a corollary, is "inadequate to sustain a claim in negligence with respect to the failure to identify PPs."

25. The defendants therefore seek to strike out the following parts of Replies 3 and 4:

> "3 ~~The Claimant alleges that the First Defendant should have identified each of the persons in the List or in any event the vast majority of them.~~ The Claimant is unable ~~(by reason of the Defendants' breaches of duty), and is in any event not obliged,~~ to plead whether the First Defendant should or would have identified "each and every" person identified in the list had the Claimant discharged its duties to the Company~~. Had the First Defendant discharged its duties to the Company, the First Defendant may also have identified Potential Purchasers beyond those named by the Claimant.~~
>
> 4 ~~The Claimant's case is adequately and sufficiently pleaded: see in particular Particulars of Claim paragraphs 37(2)-(11) and the Claimant's Amended Replies dated 13 February 2023 ("Replies") to the Defendants' Requests for Further Information, Replies 4, 5, 11 and 14-15.~~
> ~~A copy of the List is attached hereto under headings, thus:~~
> ~~(i) members of syndicates represented by Mr Astrachan;~~
> ~~(ii) members of the Clerkenwell Consortium;~~
> ~~(iii) larger and more wealthy shareholders;~~
> ~~(iv) the principals of LLC;~~
> ~~(v) minority owners of subsidiaries of the Company;~~
> ~~(vi) operational partners of the Company;~~
> ~~(vii) participants in the same or similar businesses as the Company's and/or entities which might achieve a synergy by acquiring the Business (including Digital Agencies, Audience Insights and Testing, Personalization, Customer Data Platform and Customer Data Management, MarTech Platforms, Ad Tech and Delivery, Video and Social Advertising, Customer Journey Analytics and Ecommerce Platforms);~~

~~(viii) private equity and venture capital companies and similar financial investors (including JP Morgan, omitted from the original List).~~
~~The List as attached omits 3 persons (A Hobbs, Chris Akers and W Benson) who were included in the List.~~

Analysis

November 2023 Replies to Requests 3 and 4

Reply to Request 3

Sentence 1

26. The starting point is the first sentence of Reply 3 ("sentence 1"), which states:

> "The Claimant alleges that the First Defendant should have identified each of the persons in the List or in any event the vast majority of them."

27. The claimant's counsel accepted that "each" has the same meaning in this sentence as "each and every" or "all". This is the claimant's primary case.

28. The claimant's alternative case is the defendants should have identified the "vast majority" of the persons on the List. The defendants criticize this expression as vague and embarrassing. Their position is that they are entitled to know in respect of each and every PP in the List whether the claimant alleges that they should have identified it. Their counsel submitted that the effect of sentence 1 was that it was not negligent to identify some of the PPs in the List, but the defendants do not know which ones.

29. I reject that submission. The persons and entities in the List reflect the categories of PPs alleged by the claimant. In the first judgment, I decided that the claimants are entitled to rely upon categories of PPs, and that only insofar as it sought to rely upon individuals within those categories, was the claimant required to identify them. The claimant is not required to identify every individual within a category, and it follows that the categories may contain individuals not identified by the claimant.

30. The defendants' submission is premised on the assumption that the court will consider and determine in respect of each and every PP on the List whether it was in fact a potential purchaser of the Company. This seems to me to be unrealistic. The issues of who were the PPs and whether the defendants should have identified them will be addressed by expert evidence dealing with the categories of PPs, whether the defendants should have identified those categories, and, insofar as the claimant identifies persons said to fall within them, whether those persons fell within the categories.

31. Correspondingly, the trial judge will be making findings on those issues. The judge will not be carrying out a detailed evaluation of each PP on the List to decide whether they were a potential purchaser. There may be factual issues about whether a particular person

or entity falls within an identified category, but the defendants know what the claimant's case is on this.

32. As to the expression "vast majority" I agree that it lacks specificity. The defendants submitted that even if the expression were more specific, for instance, by identifying a proportion or percentage, the claimant's case would remain unclear, because it would remain unclear in respect of any particular alleged PP whether it is alleged that the defendants should have identified it. As their counsel put it, the claimant's case could be that there was an irreducible minimum list of named or identified PPs which the claimant says the defendant should have identified in any event.

33. In my judgment, this is a reformulation of the submission I have already rejected above. The claimant's position is entitled to rely on categories, and it follows from that that it is not obliged to particularise its case in respect of each and every PP. Whether that is correct will be a matter for the trial judge – it is not in my judgment plainly unarguable.

Sentence 2

34. Sentence 2 states:

> "The Claimant is unable (by reason of the Defendants' breaches of duty), and is in any event not obliged, to plead whether the First Defendant should or would have identified "each and every" person identified in the List had the Claimant discharged its duties to the Company."

35. It follows from the above that sentence 1 is inconsistent with and cannot stand with the first part of sentence 2, such that they both cannot remain in the November 2023 Replies. I will therefore allow the claimant a short period to put forward amendments to remedy the position.

36. As to the second part of sentence 2, whether the claimant is obliged to so plead is an irrelevant allegation if sentence 1 stands; and, on that basis, is liable to be struck out. Again, I will allow the claimant a short period to formulate amendments that deal with this deficiency.

Sentence 3

37. Sentence 3 states:

> "Had the First Defendant discharged its duties to the Company, the First Defendant may also have identified Potential Purchasers beyond those named by the Claimant."

38. As noted above, the claimant's case is that the defendants should have identified categories of PP. This sentence sets out what is implicit in that case: that the categories may include PPs which the claimant has not named in its statements of case. This sentence is not therefore in my judgment strikable.

Reply to Request 4

39. Request 4 asks:

> "In respect of each so-called "potential purchaser" identified in the List whom it is alleged should have been identified by SW, please specify when and by what means it is alleged that SW should have identified them as a potential purchaser."

40. The claimant's reply states that this is sufficiently pleaded and refers back to the paragraphs 37(2) –(11) of the PoC (set out above) and Replies 4, 5, 11, and 14-15 of the February 2023 Replies. It is not necessary to set these passages out in full. They contain multiple allegations as to information about PPs that the defendants should have obtained from the Company, and that the defendants should have asked the Company's management for that information. It also sets out knowledge that the defendants had about the Company and the various categories of PPs, alleging that with that information the defendants should have identified and contacted them. As to when, this is alleged to be by 13 April 2017. The persons in the List are all said to fall within the categories identified in the February 2023 Replies. I am therefore satisfied that the information sought has already been provided.

Particulars of claim

41. The defendants seek to strike out the following passage in the PoC:

> "(including, but not limited to, those who had invested in the Company in March 2017 (including Mr Astrachan, Mr Binion and Mr Ranson)"

on the grounds that these individuals are in the List. As noted above, these individuals are listed in the Schedule, and the claimant is therefore entitled to rely upon them, whether or not they are also (mistakenly) included in the List. In any event, the particulars sought in the November 2023 Request of those individuals have already been provided in the February 2023 Replies.

November 2022 Replies

42. The position is the same in respect of the November 2022 Replies, where the passages sought to be deleted refer to Mr Astrachan, Mr Binion, Mr Ranson (and by addition in the course of the hearing, the Clerkenwell Consortium).

February 2023 Amended Replies

43. Again, the position is similar. As sent to the Claimant on 23 February 2023 (and only withdrawn in the course of the hearing), the defendants sought to strike out those passages in the Replies alleging that the defendants should have identified PPs which were later listed in the Schedule. That was plainly misconceived when the complaint made in the application relates to the List.

44. The only remaining passages sought to be struck out at the hearing were those referring to Mr Astrachan, the Binion family office, Mr Binion, Mr Charles Allard, Mr Ranson, and the Clerkenwell Consortium (the latter again added in the course of the hearing). That fails for the reasons already given.