Filed on behalf of the Applicants
Shane Michael Crooks
17 July 2024
"SC8"

CASE NO: CR-2023-001772

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

IN THE MATTER OF WEALTHTEK LIMITED LIABILITY PARTNERSHIP (Partnership Number OC355200)

AND IN THE MATTER OF THE INVESTMENT BANK SPECIAL ADMINISTRATION REGULATIONS 2011

EIGHTH WITNESS STATEMENT
OF SHANE MICHAEL CROOKS

I, SHANE MICHAEL CROOKS, a chartered accountant and licensed insolvency practitioner of BDO LLP of 55 Baker Street, London, W1U 7EU, will say as follows:

A. INTRODUCTION

1 I am an insolvency practitioner at BDO LLP (**BDO**), a professional services firm of the above address.

2 There is now shown to me a paginated bundle of copy documents, marked "**SC8**", to which I refer in this statement. References to SC8 are in the form [**SC8/tab/page number**]. I shall also refer to my second witness statement dated 9 May 2024 (**Crooks (2)**), my third witness statement dated 4 June 2024 (**Crooks (3)**) and my fourth witness statement dated 6 June 2024 (**Crooks (4)** and, together with Crooks (2) and Crooks (3), the **Prior DP Statements**). Each of the Prior DP Statements relate to the application made by the Joint Administrators on 9 May 2024 (the **Application**) for the approval of the distribution plan for the return of Client Assets held by WealthTek prepared pursuant to Part 5 of the IBSA Rules (the **Distribution Plan**).

3 I am duly authorised to make this witness statement on behalf of the Joint Administrators. Since our appointment, I have assumed primary responsibility for the day-to-day conduct of WealthTek's special administration. Save where otherwise indicated, the contents of this 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 Joint Administrator or provided to me by my colleagues at BDO in connection with the appointments in respect of WealthTek, or by certain employees of WealthTek, or by the Joint Administrators' legal advisers, Norton Rose Fulbright LLP (**NRF**).

4 Where I refer to the Website in this statement I am referring to the website (https://www.bdo.co.uk/en-gb/insights/advisory/business-restructuring/wealthtek-administration) set up by the Joint Administrators to manage client communications in the special administration (the **Website**). As with the Prior DP Statements, this statement will be uploaded to the Website once it has been filed with the Court.

5 As in the Prior DP Statements, where I refer in this statement to "**Client Assets**" I am referring to securities (including stocks, shares and other investments) held by WealthTek for and on behalf of clients and when I refer to "**Client Money**" I am referring to money that WealthTek received, held and/or treated as Client Money in accordance with Chapter 7 and 7A of the FCA's Client Assets Sourcebook (known as "**CASS 7**" and "**CASS 7A**", respectively). Where I refer in this statement to "**Rules**", I am referring to rules in the Investment Bank Special Administration (England and Wales) Rules 2011 (the **IBSA Rules**).

6 Nothing in this statement is intended to waive privilege in respect of any matter referred to and, for the avoidance of doubt, privilege is not being waived.

7 The purpose of this statement is: (a) to provide updates to the Court on various matters following the adjournment (the **Adjournment**) of the hearing of the Application on 7 June 2024 (the **Hearing**); and (b) to respond to concerns raised by the Court at the Hearing, by explaining the approach which the Joint Administrators have adopted in the Distribution Plan and the Application, having regard to the Joint Administrators' assessment of what is in the best interests of clients as a whole.

8 In accordance with the Order dated 12 June 2024, the hearing has been relisted for 23 July 2024 (the **Relisted Hearing**) [**SC8/1/1-2**].

9 The remainder of this statement is divided into the following sections:

(a) Section B: Background;

(b) Section C: Discrepancies in WealthTek's books and records:

(i) Factual detail and background to the Joint Administrators' approach to determine clients' entitlements;

(ii) The Joint Administrators' approach to particular scenarios:

(A) Purchase of replacement Client Asset scenario; and

(B) Non-processed sale instruction scenario;

(iii) Consequences of the Joint Administrators adopting alternative approaches to the purchase of replacement Client Asset scenario and/or the non-processed sale instruction scenario;

(iv) Consideration of alternative approaches to resolving the discrepancies:

(A) Applying to the Court for directions; and

(B) Inclusion of a dispute resolution provision in the Distribution Plan;

(c) Section D: Communications following the Adjournment:

(i) Joint Administrators' client communications; and

(ii) Correspondence from clients; and

(d) Section E: Various other updates:

(i) Discussions with the identified broker; and

(ii) FCA consent.

B. Background

10 At the Hearing, the Honourable Mr Justice Rajah explained that, given the discrepancies that the Joint Administrators had identified in WealthTek's books and records, in order to make an order approving the Distribution Plan, he required further detail on the basis on which clients' entitlements to client assets had been calculated by the Joint Administrators for the purposes of making returns of client assets under the Distribution Plan.

11 Following the Adjournment, and in light of certain remarks and observations made by Mr Justice Rajah at the Hearing in relation to the Joint Administrators' favoured approach, the Joint Administrators have reflected, together with their legal team, on how best to approach the Application and to present to the Court the reconciliation exercise underlying the calculation of client entitlements that forms the bedrock of the Distribution Plan.

12 To that end, the Joint Administrators have formulated the following approach:

(a) the provision of this witness statement, setting out in further detail the background to and reasons for the Joint Administrators' approach vis-à-vis calculating and determining clients' entitlements; and

(b) the instruction of an independent King's Counsel to provide an Opinion to the Court on matters relating to the Joint Administrators' proposed approach to the distribution of client assets which underlies the Distribution Plan. Specifically, the independent Counsel has been instructed to provide an Opinion addressed to the Court, considering whether the Joint Administrators' proposed approach to resolving discrepancies in WealthTek's books and records for the purposes of the Joint Administrators completing their reconciliations of client assets and client money is fair and reasonable.

C. Discrepancies in WealthTek's books and records

13 In the section below, I address:

(a) the factual detail and background to the Joint Administrators' approach to determining clients' entitlements;

(b) the Joint Administrators' approach to two particular (interlinked) scenarios and resolving these issues on the basis of legal advice;

(c) the consequences of seeking to resolve these issues with alternative approaches; and

(d) the consideration of alternative approaches to resolving the discrepancies in WealthTek's books and records.

(i) Factual detail and background to the Joint Administrators' approach to determine clients' entitlements

14 As I set out in detail in paragraphs 33 to 39 of Crooks (2), from the Joint Administrators' investigations to date (including the information extracted from the Contemi IT platform used by WealthTek to record client data and holdings of Client Assets), it is apparent that there is a Client Assets shortfall on an indicative value basis of approximately £70.6 million and Client Money shortfall of approximately £10 million.

15 The existence of the shortfalls highlighted a number of issues in relation to the books and records of WealthTek which, typically, the Joint Administrators would have expected to rely on for the purposes of determining client entitlements (i.e. what Client Assets were held by WealthTek, and

for whom), with a view to returning Client Assets. In this case, if Client Assets or Client Money were distributed to clients solely in reliance on the books and records, given the discrepancies that have been identified, as I explained in paragraph 34 of Crooks (2), clients might not get what they were entitled to or competing claims (not reflected in WealthTek's records) might be made by clients or other counterparties after Client Assets had been returned, potentially requiring distributions to be reversed. This is not a basis on which the Joint Administrators are prepared to proceed, in light of their duties to the clients and creditors of WealthTek and their overriding desire to act in the best interests of those clients and creditors. Accordingly, the Joint Administrators have been concerned throughout to formulate a basis for reconciling and returning Client Assets which represents the fairest outcome for clients generally.

16 As I set out in paragraph 35 of Crooks (2), in the course of conducting the required reconciliations, the Joint Administrators identified six indicative scenarios which have recurred in the course of their investigations, so far as inaccuracies in WealthTek's books and records are concerned, for the purposes of concluding the Joint Administrators' reconciliation exercise and calculating clients' entitlements to Client Assets and Client Money. Different clients might be affected by one or more of the indicative scenarios, to a greater or lesser extent (i.e. they are not exclusive to particular clients). I set out the six factual scenarios in what I had intended to be a detailed but client-friendly and easily-understandable manner in paragraphs 40 to 69 of Crooks (2).

17 The position of each client has been considered individually in the course of the Joint Administrators' reconciliation exercise, and individual entitlements calculated accordingly. However, in order to formulate a consistent approach to dealing with the six indicative scenarios, the Joint Administrators sought legal advice from leading Counsel (the **JAs' Counsel**), with specialism in financial services-related insolvencies generally and investment bank special administrations in particular, as to the most appropriate approach to take to determine clients' entitlements (i.e. as between a single client, other affected clients and/or WealthTek itself) to particular Client Assets and Client Money where there have been authorised and unauthorised transactions processed by WealthTek on behalf of its clients prior to its entry into special administration.

18 The Joint Administrators' objectives in seeking to arrive at a solution – and the reason for seeking advice from JAs' Counsel in the first place as well as relying on their experience in past insolvency cases and in financial services matters generally – included:

(a) ensuring that the best outcome is achieved for clients of WealthTek generally, in an even-handed way, rather than seeking to serve the interests of any particular client or clients, taken in isolation;

(b) deferring as far as possible to the books and records of WealthTek – as apparent from Contemi – as a readily-accessible source of information for the Joint Administrators, except where there are clear reasons to conclude that a client's entitlement differs from the position portrayed by Contemi (the most obvious example of which is the unrecorded payments scenario set out in paragraphs 40 to 45 of Crooks (2), i.e. where particular clients have received a payment for which no corresponding book-entry had been made in WealthTek's records);

(c) arriving at a conclusion in relation to client entitlements which is legally robust, whilst also being just and fair as between clients (who have clearly suffered a common misfortune following WealthTek's failure) and being readily capable of implementation by the Joint Administrators. In particular, the Joint Administrators have had regard to the cost and time implications of the various options open to them so that the return of client assets is not unduly expensive or delayed;

(d) giving effect, as far as possible, to the legitimate expectations of clients. The information contained in Contemi – a form of which would have been available to clients via their WealthTek client statements on an ongoing basis prior to WealthTek's special administration – appears to the Joint Administrators, in large part, to be the most likely source for the legitimate expectation of clients as to the holdings of Client Assets and Client Money, rather than any extraneous source of information. To this end, as I set out in paragraph 6(s) of Appendix A of Crooks (2), the Joint Administrators have already circulated individual Client Asset Statements to each client setting out the relevant information and details relating to that client's claim to Client Assets and the Joint Administrators' determination as to the Client Assets to which they are entitled (whether or not those Client Assets are held in whole or in part by WealthTek) and their Client Money entitlement (**CME**). As at today's date, only 4 Client Assets Claim Forms (the form by which clients confirm whether they agree with the claims set out on their individual Client Assets Statements) have not yet been agreed (which represents a very small percentage of the value of the total client assets undertaken to be held by WealthTek). The Joint Administrators expect to resolve each of these positions with the relevant clients;

(e) settling on a course of action – and basis for effecting returns of Client Assets under the Distribution Plan (and, separately but relatedly, for making distributions of Client Money) – that is administratively and operationally practicable and efficient to implement, in terms of confirming to clients their entitlements (in the statements that reflect agreements with each client of their accepted claims in respect of client assets (referred to in the Distribution Plan as "**Client Assets Confirmation Statements**")) and proceeding to move forward with

transfers and distributions such that associated personal and financial hardship experienced by clients of WealthTek can be minimised;

(f) arriving at a solution which will enable clients to have access to their Client Assets in the shortest time reasonably practicable and without risk of competing claims being made to those Client Assets following their return; and

(g) safeguarding the position of vulnerable clients and/or those who are less able or inclined to take an active role in the finalisation of a determination of their entitlements, as compared with clients who are more likely to engage in a proactive way with the Joint Administrators. To this end, the Joint Administrators were mindful, as I set out in paragraph 23 of Crooks (2), that 98% of WealthTek's clients are individual, retail clients with an average age of 68.

19 On the basis of the Joint Administrators' objectives as set out above, and the relevant factual and legal position, the JAs' Counsel prepared an opinion which was relied upon by the Joint Administrators (the **Existing Opinion**) [**SC8/2/3-37**]. The Joint Administrators have used the Existing Opinion as forming part of the basis for determining the entitlements of individual clients, where relevant.

(ii) The Joint Administrators' approach to particular scenarios

20 Whilst the Joint Administrators identified six indicative scenarios which have recurred so far as inaccuracies in WealthTek's books and records are concerned (as described in paragraphs 35 *et. seq* of Crooks (2)), I wish to address the two particular (interlinked) scenarios which have required the Joint Administrators to exercise their professional judgment, with the benefit of legal advice, as to the proper approach to adopt for the purposes of concluding the reconciliation exercise and calculation of clients' entitlements to Client Assets and Client Money.

21 The Joint Administrators' proposed solutions in relation to scenarios one to four represent the relatively straightforward application of well-established legal principles. However, scenarios five and six are more complex as they require, respectively, the Joint Administrators: (a) to decide upon the most appropriate of a number of potentially-applicable identification techniques with respect to payments out of a general client money account (i.e. a mixed fund) of WealthTek (**CMA**); and (b) carefully to consider whether it is practically possible and workable to allow

individual clients to make an election between remedies following a breach of trust on WealthTek's part.[1]

(A) Purchase of replacement Client Asset scenario

22 This is scenario five identified by the Joint Administrators, as summarised in paragraphs 57 to 61 of Crooks (2) and page 11 of the explanatory statement accompanying the Distribution Plan (the **Explanatory Statement**).

23 In this scenario, Client Asset "X" was held for a client by a custodian. WealthTek sold X on the open market, without the relevant client's knowledge, and the actual proceeds of the sale of X were paid into the CMA.

24 Subsequently:

(a) the client instructed WealthTek to sell X and purchase a different Client Asset, "Y", in its place;

(b) as WealthTek had already sold X, it used Client Money from the CMA to purchase Y from the open market; and

(c) as a result, there is uncertainty as to whether the purchase of Y was in fact made using the proceeds of the sale of X.

25 In the Existing Opinion, the JAs' Counsel considered various techniques to deal with the distribution of assets held in a mixed fund which belong to equally-innocent recipients. Consideration was given principally to four approaches to following and tracing Client Assets, and thereby determining client entitlements, in cases where difficulties had arisen in identifying for whom particular Client Assets were held:

(a) the "*first in, first out"* basis whereby debits from an account are treated as being made in the order in which earlier credits had been made;

(b) the rateable approach on a fund-by-fund basis, whereby the assets held are aggregated and a distribution is made on a rateable or *pari passu* basis, according to clients'

[1] For this purpose, a reference to WealthTek's Client Money account is to an account of WealthTek that is a "client bank account" within the meaning given to that term in CASS 7. The Joint Administrators' investigations indicate that the CMA was operating with a shortfall throughout the timeframe they have investigated.

entitlements, such that the assets are divided proportionately between those clients who held an interest in the mixed fund, in accordance with their entitlements;

(c) the *"rolling charge"* approach, which combines the rateable approach above with a rule that a client is only entitled to recover the maximum that can be regarded as representing their entitlement, based on movements on the account over time; and

(d) the "*earmarking*" approach, which provides that a client is entitled to a particular asset ("Y") because it instructed WealthTek to purchase Y (in the case of an execution-only Client) or Y was purchased on its behalf by WealthTek in an authorised manner (in the case of a discretionary fund-managed client), because the intention had been for Client Money to be appropriated for that purpose.

26 After a robust and iterative process informed by the objectives set out above and the developing factual picture as the Joint Administrators investigated further, JAs' Counsel advised, and the Joint Administrators agreed, that an earmarking approach should be adopted in favour of any of the other possible approaches, as it represents the fairest solution in the circumstances. In addition, any of the other approaches would require the Joint Administrators to conduct a detailed tracing exercise which, as I set out in Section C(iii) below, would be impracticable (or practically impossible), time-consuming and expensive.

(B) Non-processed sale instruction scenario

27 This is scenario six identified by the Joint Administrators, as summarised in paragraphs 62 to 69 of Crooks (2) and page 12 of the Explanatory Statement.

28 In this scenario, a client instructed WealthTek to sell Client Asset "X" held for it by a custodian on the open market but WealthTek failed to do so. Instead, the client was credited with "manufactured" proceeds i.e. an increased CME, purporting to represent the proceeds of the sale of X, but with no real-world cash being received into the CMA (or otherwise). WealthTek might then have bought Client Asset "Y" on behalf of that client with the authority of the client, by reference to the client's increased CME, using actual Client Money from the CMA.

29 In the Existing Opinion, the JAs' Counsel advised that each client to whom this scenario applies could, in these circumstances, elect to have X or to claim an interest in the client money pool[2]

[2] The client money pool is the pool of Client Money which is automatically and notionally constituted on the "primary pooling event" as that term is used in CASS 7A, being, in WealthTek's case, its entry into special administration.

(**CMP**) (by reason of their interest in the manufactured proceeds, as part of their CME). However, in circumstances in which:

(a) the client were to elect in favour of having X:

(i) there would need to be an appropriate deduction from the client's CME of an amount equal to the value of X (as the client should not maintain their entitlement to X and also have a CME to the extent of the value of the sale proceeds of X); and

(ii) the consequence would be that the client would have no entitlement to Y, which would then, practically, be liquidated by the Joint Administrators and the proceeds added to the CMP. Such proceeds would then belong beneficially to Client Money claimants on the CMP, rateably, in accordance with each client's CME; and

(b) the client were instead to elect to claim an interest in the CMP:

(i) in a scenario where Y had not been bought, the client would now simply be entitled to a distribution from the CMP, rateably in accordance with its CME;

(ii) where Y had been bought, and at a time when the CMA was in deficit:

(A) it would be justifiable to apply an earmarking approach (as to which, see paragraph 25(d)), such that the client's Client Money would be treated as having been used to buy Y. The result is that the client would be treated as owning Y; and

(B) the consequence would be that the client would have no entitlement to X, which would then, practically, be liquidated by the Joint Administrators and the proceeds be added to the CMP. Such proceeds would then be considered to be held for Client Money claimants on the CMP, rateably in accordance with their respective CMEs.

30 In the Existing Opinion, the JAs' Counsel formed the view that WealthTek's retention of X amounts to a breach of trust and, therefore, the client retains their right to X. Strictly, as a matter of law, the relevant client is entitled to elect between retaining the asset or claiming a share of the amounts credited to the CME, as explained above. However, the JAs' Counsel concluded that, given the practical difficulties created by adopting this approach, it was justifiable for the Joint Administrators to deem the clients to have elected to take the proceeds allocated to them,

provided that the evidence produced by the Joint Administrators demonstrated the practical difficulties associated with providing elections.

Consideration of allowing clients to make an election in the non-processed sale instruction scenario

31 As I set out at paragraphs 65 to 67 of Crooks (2), the Joint Administrators concluded that it would not be workable, from a practical perspective and on the facts of this case, to give clients the ability themselves to make elections as to whether to retain their rights to an original asset or to take the proceeds they were provided (i.e. an increased CME or any replacement asset). The rationale for this conclusion is evidenced in the worked example explained section C(iii) below.

32 In reaching this conclusion, the Joint Administrators gave consideration to the following factors:

(a) many clients lack sufficient information to make an informed election because the means of accessing the required information is only available to the Joint Administrators, who would need to interrogate it by conducting a full tracing exercise in order to ascertain the true underlying facts (to enable them to understand the economic consequences of the various elections). Such a tracing exercise would be impractical (or practically impossible) for the reasons set out at in paragraphs 33 to 42 below. In view of the demographics of WealthTek's client base (as to which, see paragraph 18(g) above), many clients might not be capable of making an informed election in any event. The Joint Administrators have therefore proceeded on the basis that it is possible that at least some of those clients are not investors who would have the market understanding and experience, or perhaps even the inclination or time, to engage in a meaningful way in making elections between particular outcomes. It is the Joint Administrators who have access to the available information and, therefore, who are in a position to make an informed decision as to the appropriate approach to take, proceeding in accordance with their duty to act in the interests of all clients as a whole; and

(b) perhaps more importantly, if clients were given the opportunity to elect, there would be a 'moveable feast' in that one client's election would affect other clients' entitlements and the likely economic consequences of other clients' elections more generally (with the potential consequence that what had at one time appeared to be a favourable election might become less so over time based on increased claims vis-à-vis a particular asset class – and vice versa). This would make it practically impossible for the Joint Administrators administratively and operationally to implement in a manner that was fair and transparent throughout any period for which elections were being made. As such, this approach would be extremely difficult for the Joint Administrators to manage, given the need to recompute

different clients' entitlements to Client Assets and Client Money each time a new election was made by a different client, requiring a large volume of transactions to unwind. I explain at Section C(iii) below that this process would not be practically possible and would involve substantial cost (such costs being ultimately borne by the clients and/or the Financial Services Compensation Scheme (**FSCS**)) and time, likely leading to substantial delays in even beginning the process of distributing Client Assets.

(iii) Consequences of the Joint Administrators adopting alternative approaches to the purchase of replacement Client Asset scenario and/or the non-processed sale instruction scenario

33 The adoption of any of the alternative approaches to earmarking in the purchase of replacement Client Asset scenario explained in paragraph 25 and/or allowing a client to make an election in the non-processed sale scenario, would, in each case, necessitate a full tracing exercise to be conducted by my colleagues. Every single transaction that had taken place over a number of years prior to WealthTek's special administration across each account would need to be unwound in order to ascertain the true transaction history and individual clients' actual entitlements. The Joint Administrators have serious reservations that any such exercise would be practically possible and would be time-consuming and expensive.

34 In order to better illustrate the Joint Administrators' concerns in this regard, I asked my colleagues to conduct a partial tracing exercise on one particular real-life example, selected at random, to unravel a single client's holding of one stock line, on the assumption that all transactions were authorised by the client. This example is a non-processed sale scenario with my colleagues applying the "*first in, first out"* basis to deal with the co-mingling of funds within the CMA into which receipts were credited.

35 Copies of flowcharts which graphically represent the example are included in SC8 [**SC8/3/38-39**] and I set out further background to the example and explain various of the line items set out in the flowcharts in SC8 [**SC8/4/40-41**].

36 In relation to this one example, it is important to note the following:

(a) this example traces only 30% of a single client's holding of one stock (Asset "X") spanning a period of over two years.

(b) my team have informed me that working through this single example took the retained employees of WealthTek and one team-member specialising in forensic accounting 17 hours. This client had a further 31 stock lines in their account at the time of this sale but

neither these stock lines nor the other transactions concerning the remaining 70% of the client's holding of Asset X (totalling 564 shares) have been traced;

(c) Asset "X" is not simply replaced by Asset "Y", as described in paragraph 28 and the Existing Opinion (where the scenario was simplified). The movements of funds in this example affect a further 7 other asset pools and 476 other clients;

(d) if the client were to be allowed to make an election as to whether it wished to receive the original Asset "X" (which is still held by WealthTek) or the alternative, Client A would need to be provided with sufficient information as to the alternative to make an informed decision. After the initial non-processed sale instruction, the entire ensuing transaction chain was created using tainted assets purchased with "manufactured" proceeds, which would also need to be traced to ascertain what the position might otherwise have been (all other things being equal). This may require the unwinding of a chain of subsequent transactions between the date of the sale of Asset "X" and WealthTek's special administration up to 6 April 2023, including but not limited to:

(i) the purchase of assets;

(ii) the sale of assets;

(iii) the receipt of dividend income or interest;

(iv) the occurrence of other corporate actions (e.g. share consolidations/splits);

(v) funds paid out to Client A's bank account; and

(vi) funds transferred to other client accounts (e.g. transferred from Client A's general investment account to its ISA account).

Put simply, even in this one example, it is not possible for the Joint Administrators to clearly determine the alternative to receiving Asset "X", such that the client would now be able to make an informed election;

(e) whilst without doing further tracing exercises in respect of other stock lines my colleagues cannot definitely confirm that this example is a "typical" tracing example, given the known discrepancies in the books and records and the actual transactions which took place over a prolonged period of time, it would appear likely that tracing other similar transactions, of which there are expected to be many thousands that were processed prior to WealthTek's

entry into special administration, would be at least as complicated and time-consuming; and

(f) the Joint Administrators are not in a position at this stage to say whether they would be able conclusively to demonstrate this client's actual entitlement to Client Assets and Client Money. The existence of fractional entitlements to assets and discrepancies in interest and dividend payments arising from different corporate events in the chain relating to assets that may or may not exist means that this approach is unlikely ever to be conclusive.

37 It is therefore plain that the tracing exercise required to untangle such transactions is incredibly complex.

38 If the Joint Administrators' team were to expand their enquiries to concern even the entirety of that one stock line, multiple different original stock lines held for a particular client, or the client's entire holding of Client Assets, the scale of the task – potentially encompassing transactions going back a decade or more prior to WealthTek's failure[3] – would be dramatically increased. An election would need to be made by each individual client for each individual stock line on each individual asset held where this particular scenario has occurred.

39 I estimate that the process would take several years if it were to be necessary to carry out a full tracing exercise for all clients, assets and stock lines (assuming it were even practically possible to do so (as to which, see paragraph 33 above)). The Joint Administrators would be unlikely to be able to distribute any of the underlying assets prior to concluding the exercise and, consequently, the FSCS would also not be able to compensate affected clients until such time.

40 The conclusion of such a tracing exercise may also affect clients who have actually received Client Assets or Client Money in the past. There are likely to be a significant number of clients who, having relied on the books and records of WealthTek over time, will have historically opted to receive Client Assets and/or Client Money purportedly held for them by WealthTek before its entry into special administration. Any tracing exercise would therefore need to consider such earlier transfers, which may result in certain clients having "over-recovered" Client Assets and/or Client Money in the past. In these cases, it cannot be discounted that the legal analysis would be that WealthTek might be able to bring recovery actions against those clients, to the extent of any over-recovery. However, the Joint Administrators anticipate that each such case would then turn on its own facts. Likely matters which the Joint Administrators would in these circumstances need to consider include the materiality of the amount in issue, whether any recovery action is

[3] WealthTek (originally incorporated as Vertus Asset Management LLP and using a number of other trading names) was incorporated in 2010.

proportionate, and any possible defences available to the client that might add complexity and lessen the prospect of a successful recovery (for example, any change of position, waiver or estoppel-type argument, in light of the reliance placed previously on entitlements recorded in WealthTek's books and records).

41 Clearly, any tracing exercise would not be an "exact science". In my view, there would be an inherent risk attached to the prospect of carrying out even the most comprehensive forensic tracing exercise with respect to transactions undertaken by WealthTek on behalf of clients, whether or not authorised by those clients.

42 As a result of the above considerations, the Joint Administrators' opinion – based on legal advice we have received, our experience in previous insolvency cases and our professional judgement – is that the favoured earmarking approach and deemed elections represents a fair and reasonable approach in the best interests of WealthTek's clients as a whole. In particular we have regard to:

(a) ensuring the adopted solution represents a fair outcome that applies even-handedly across WealthTek's client base (including, as noted in paragraph 32(a) above, taking into account the likely different propensities amongst clients to engage in the making of elections);

(b) the impracticality (or practical impossibility) identified above in conducting a tracing exercise on any other basis;

(c) the fact that if any other solution were to be adopted, the necessary tracing exercise (assuming it were practically possible) would be incredibly expensive. Those costs would ultimately be borne by clients (or the FSCS – thereby reducing the "balance" of available compensation for clients) and the delay would be highly undesirable. The required tracing exercise would also be incredibly time-consuming, significantly delaying returns of client assets, in circumstances where the Joint Administrators recognise that clients have already been unable to access their Client Assets and Client Money for some time; and

(d) the approach we intend to adopt is readily implementable by the Joint Administrators according to a manageable timeframe, in the admittedly difficult circumstances of WealthTek's special administration, and in view of the significant shortfalls faced and WealthTek's largely retail client-base (for whom, the delays already experienced have inflicted significant personal and financial hardship, anxiety and frustration).

(iv) Consideration of alternative approaches to resolving the discrepancies

43 The Joint Administrators have also considered the different approaches which we could have adopted to resolving the difficulties in reconciling WealthTek's books and records. In particular the Joint Administrators have considered whether to:

(a) apply separately to the Court for directions as to the determination of such issues; or

(b) amend the Distribution Plan to include a broad dispute resolution clause allowing clients to dispute the underlying approach taken by the Joint Administrators.

44 However, for the reasons discussed below, the Joint Administrators, remain of the opinion that proceeding on the basis of a Distribution Plan applying the approach they intend to adopt to reconciling the books and records of WealthTek, as approved by the clients' and creditors' committee (the **Committee**), is an appropriate and, crucially, practically implementable approach in all the circumstances.

(A) Applying to the Court for directions

45 Prior to issuing the Application, the Joint Administrators, together with their legal team, spent a significant amount of time considering the appropriate way to proceed, with the ultimate goal of finding a practical solution that works for clients as a whole but which also has a sound and defensible legal basis.

46 The Joint Administrators gave consideration to seeking the determination by the Court of numerous issues relating to the reconciliation of Client Assets, with the benefit of assumed fact patterns and selecting particular clients to be representative respondents, to advance arguments on behalf of classes of similarly-affected clients. A necessary prior step to the taking of such approach would be to undertake a tracing exercise in order to identify where a particular client's interest lies. This would need to be considered from an overall perspective as individual clients may benefit from a particular approach in relation to one stock line but not others. Even then, it would not be a foregone conclusion that a client whose interests were considered by the Joint Administrators to be representative of a class of similarly-affected clients would be willing or able to act as a representative respondent. In this sense, WealthTek's case differs from other investment firm failures where a similar approach has been followed in the past.

47 However, the Joint Administrators were concerned that any directions application to the Court at this stage would have been:

(a) time-consuming and likely to lead to delays in even beginning the process of distributing client assets which would be difficult to countenance in WealthTek's case, given the personal and financial hardship experienced by WealthTek's clients, 98% of whom are individual, retail clients with an average age of 68;

(b) expensive, reducing the value of the Client Assets to be returned (because the costs would have been payable out of the Client Assets) where shortfalls are already identified; and

(c) uncertain, with scope for appeals, which the Joint Administrators deemed to be inappropriate in circumstances where a number of clients are already suffering hardship.

48 It is for these reasons that the Joint Administrators favoured proceeding on the basis of the legally robust but commercial and implementable approach they have adopted. Moreover, given the complexity of the issues and the constitution and characteristics of WealthTek's client base, the Joint Administrators consider that the burden of alighting on such an approach rests on them, in light of their duties to clients generally, rather than (for example) the Joint Administrators seeking to engage in a more iterative process which would inevitably involve only some of WealthTek's clients such that any solution might be said not to be fully representative of the interests of all clients.

(B) Inclusion of a dispute resolution provision in the Distribution Plan

49 The Joint Administrators have considered – including in light of a suggestion made by Mr Justice Rajah at the Hearing – amending the Distribution Plan to include a broad dispute resolution clause allowing clients to dispute the approach taken by the Joint Administrators to calculating underlying entitlements as such and/or applying to the Court for directions as to the determination of such issues.

50 By way of background:

(a) in February 2024, clients were each sent a Client Assets Claim Form along with an accompanying Client Assets Statement detailing their claims to Client Assets and Client Money and setting out the expected shortfalls that had been suffered and, therefore, the likely returns of both Client Assets and Client Money they stand to receive. On this basis, clients were invited to agree their claims by completing and submitting their Client Assets Claim Form. The Client Assets Statements were prepared by my colleagues at BDO based on entitlements recorded in WealthTek's books and records and the approach to the indicative scenarios so far identified, applying the approaches identified in the Existing Opinion;

(b) at the point of receipt of their Client Assets Claim Form, each client had an opportunity to question and/or disagree with the detail contained in their individual Client Assets Statement, including after receipt of the Distribution Plan and the Explanatory Statement which set out the approach taken by the Joint Administrators to calculating underlying entitlements; and

(c) as set out in paragraph 18(d) above, as at today's date, only 4 Client Assets Claim Forms have not yet been submitted in agreement with the Joint Administrators' computation of clients' claims. The Joint Administrators are continuing to discuss each of these outstanding positions with the relevant clients. The reasons for disagreements to date do not appear to relate to how the Joint Administrators propose to calculate underlying entitlements or the basis on which the Distribution Plan has been prepared.

51 If a dispute resolution process in relation to the computation of underlying claims were now to be included in the Distribution Plan (i.e. following the agreement of the majority of client claims), with the consequence that a particular entitlement was subsequently challenged in any way by a particular client or clients, that would potentially have the effect of calling into question all of the claims which have been agreed by others with claims to the same securities.

52 Any successful challenge, which would likely only be able to be brought by clients with sufficient resources, could therefore result in the Distribution Plan operating differently for clients in relation to the same issues, and a client's entitlement to Client Assets depending on whether or not it has challenged the calculation of its entitlement to the Client Assets under the Distribution Plan. Depending on the nature of the particular dispute, the Joint Administrators might even be faced with questions as to whether it is appropriate (or even possible) to operate a two-track approach (i.e. maintaining the existing approach for clients generally, and modifying it only for the client who has made a successful challenge – which may itself give rise to competing claims), or whether more deep-rooted changes are warranted (i.e. changing approach for all clients in the event of a successful challenge). In the case of the latter, it is not inconceivable that clients who were content with the original approach might then take issue with a modified approach proposed by the Joint Administrators following a successful challenge by a single client. In other words, my view is that the dispute resolution route could open up a "can of worms" that is not in the interests of clients generally or consistent with the return of Client Assets as soon as is reasonably practicable. It would be capable of leading to significant unfairness. For various reasons, therefore, including the differing levels of client engagement and the fact that many of WealthTek's clients are vulnerable or elderly, the Joint Administrators do not consider this approach to be practicable, in the circumstances.

53 In addition, much like the position set out in paragraph 32(b) above in relation to elections, this approach would have a contagion effect in terms of the ability of the Joint Administrators to return other assets. For example, if one client were successfully to dispute the deemed election that the Joint Administrators made, the consequences would be that: (a) any election subsequently made by that client would affect the entitlements of other clients; and (b) other clients may suggest that they should be entitled to make an equivalent alternative election (which would in turn have knock-on effects for all other clients and could potentially even effect the existence of, or economic consequences of, the election which the original challenging client made).

54 For these reasons, it seems inevitable that the Joint Administrators would not be able to proceed to distribute all Client Assets in short order; rather, it seems likely that the Joint Administrators would need to withhold from distribution a substantial amount of the Client Assets until challenges to the approaches adopted by the Joint Administrators had been conclusively determined. This would make this approach unworkable from the Joint Administrators' perspective, such that the Joint Administrators remain of the opinion that taking this course would be impractical, uncertain, time-consuming (as being likely to lead to further delay for a significant additional period) and costly, in circumstances where clients of WealthTek have already faced delays and, in some cases, associated financial hardship for over a year.

D. Communications following the Adjournment

(i) Joint Administrators' client communications

55 As I set out in paragraph 148 and Appendix A of Crooks (2) and as further explained in each of the other Prior DP Statements, the Joint Administrators have communicated frequently with WealthTek's client base - both generally and in response to specific queries received from individual clients – since 6 April 2023. This continues to be the case.

56 Following the Adjournment:

(a) on 10 June 2024, the Joint Administrators communicated an update to clients via the Website explaining the Adjournment to the Hearing [**SC8/5/43-44**];

(b) on 13 June 2024, the Joint Administrators communicated an update to clients via the Website [**SC8/5/43**] confirming that:

(i) the Application has been relisted to be heard at 10:30am on Tuesday 23 July 2024 in person before Mr Justice Rajah in the High Court of Justice, Business and Property Courts of England and Wales, 7 Rolls Building, Fetter Lane, London EC4A 1NL;

(ii) the court room number for the Relisted Hearing will be available on the online cause list the afternoon before the Hearing and also displayed in the lobby of the Rolls Building on the day of the Hearing; and

(iii) clients are not required to attend Court for the Relisted Hearing but that the Relisted Hearing will be held in public and anyone is able to attend, if they wish to do so.

(c) on 17 July 2024, the Joint Administrators communicated an update to clients via the Website [**SC8/5/42-43**] confirming that the Opinion produced by independent Counsel (as described at paragraph 12(b) above) has been filed with the Court and that copies will be made available to clients, on request.

57 The Joint Administrators requested in the 13 June 2024 notice that any person intending to participate in the Relisted Hearing contact the Joint Administrators as soon as possible for the same reasons as set out in paragraph 11 of Crooks (3).

58 The Joint Administrators have been notified that representatives of FSCS, the FCA and Stellar Asset Management, one of the financial intermediaries who dealt with WealthTek prior to its special administration, will be attending the Relisted Hearing, each as observers (as they did at the first hearing), as well as an investment manager formerly associated with WealthTek. In addition, representatives of two members of the Committee (from Lord Clarke Limited, a financial intermediary) have notified the Joint Administrators that they will attend the Relisted Hearing as observers, and have also indicated that certain of WealthTek's underlying clients whose relationship with WealthTek was primarily through Lord Clarke Limited, are also intending to attend in the same capacity. Otherwise, though, I am not aware as at the date of this statement of any other party or client having notified my colleagues at BDO that they will be attending the Relisted Hearing.

59 The Joint Administrators will upload a copy of this statement to the Website, together with a copy of the JAs' Counsel's supplemental skeleton argument for the Relisted Hearing, in due course.

(ii) Correspondence from clients

60 Since the Hearing, the Joint Administrators have not received communications from clients indicating any form of objection to the terms of the Distribution Plan as such.

61 I am, however, aware of several letters having been sent to the Court by clients and on clients' behalf, and one email received directly by the Joint Administrators for production to the Court, concerning the Adjournment and/or expressing support for the early approval of the Distribution Plan as presently proposed. I deal in the paragraphs that follow with the first four letters received

by the Court and the email received by the Joint Administrators. A further letter received by the Court from a client of WealthTek (who had not copied the Joint Administrators) [**SC8/6/45-47**] was forwarded to the Joint Administrators on 16 July 2024. We are considering this letter and will respond to it appropriately in due course.

62 An initial point to note that is common to several of the letters received is that clients are naturally concerned to ensure that appropriate steps are being taken to investigate the reasons for WealthTek's failure and ensure that appropriate recoveries can be made in light of the significant shortfalls in Client Assets and Client Money that have been suffered. In that regard, I note that the FCA's investigation is ongoing, as I have explained previously at paragraph 2.2.14 of the Joint Administrators' second progress report dated 3 May 2024 [**SC8/7/48-90**]. In addition, the Joint Administrators are continuing to progress their own specific enquiries and investigations in relation to WealthTek and its affairs. As matters stand, and for reasons of legal professional privilege and to avoid any commercial prejudice in relation to any claims that the Joint Administrators may identify against any third parties, we are not able to provide any further information in relation to those enquiries and investigations at this time. This is normal market practice in a case like WealthTek's, and we consider this approach to be in the best interests of the clients and creditors of WealthTek. The Joint Administrators will nonetheless continue to liaise with the Committee in relation to these ongoing enquiries and investigations in the coming weeks and months.

(A) First letter

63 On 17 June 2024, my colleague at BDO received a copy of a letter addressed to the Court from one client [**SC8/8/91**] (noting that the copy that appears in SC8 has been anonymised to protect the identity of the particular client). The letter stated that the Distribution Plan approved by the Committee is fair for all parties concerned and also described the financial hardship currently being suffered by WealthTek's clients.

64 On 27 June 2024, I wrote to the client, acknowledging that, whilst his letter was addressed to the Court, I would respond to certain of the points raised for good order to clarify certain of the inaccuracies contained therein and confirm the following (in summary) [**SC8/9/92-93**]:

(a) the reason for the Adjournment, instead referring the client to the update to clients uploaded to the Website on 10 June 2024;

(b) that neither the Joint Administrators nor BDO, or any of its representatives, hold the views that have apparently been attributed to them in relation to a particular client; and

(c) that, as matters stand, there is no planned increase of the £23,000 costs contribution which the Joint Administrators propose be borne by each client under the Distribution Plan by virtue of the Adjournment.

(B) Second letter

65 On 19 June 2024, Matthew Stone, one of my colleagues at BDO, spoke with another client. During such conversation I understand that the client expressed his concerns regarding the Adjournment.

66 On 25 June 2024, my colleague at BDO received a copy of a letter addressed to the Court from the same client and his wife, who have suffered substantial losses in connection with WealthTek's failure [**SC8/10/94**]. The letter made clear the suffering of WealthTek's clients but also reflected a misunderstanding of the reason for the Adjournment.

67 I responded to these clients on 1 July 2024 [**SC8/11/95-96**] again acknowledging that, whilst their letter was addressed to the Court, I wanted to, among other items, clarify the reason for the Adjournment and referred the clients to the update uploaded to the Website on 10 June 2024.

(C) Third letter

68 On 3 July 2024, an individual who is a former consultant with Malloch Melville Ltd (a Harrogate-based investment management firm that had close connections to WealthTek prior to its special administration), shared with my colleague at BDO a copy of a letter addressed to the Court [**SC8/12/97-98**]. In his letter, the former consultant set out the financial hardship faced by many clients and stated his understanding of the reason for the Adjournment.

69 On 10 July 2024, I responded to the former consultant [**SC8/13/99-100**] to, among other things, again clarify the reason for the Adjournment and referring him to the update uploaded to the Website on 10 June 2024.

70 My colleagues received an email reply to my letter from the former consultant on 11 July 2024 [**SC8/14/101-103**]. In his reply, he noted that my response "*implies observations that I never made in my original letter*" and that he "*may follow up later*".

71 A further letter from the same individual, addressed to the Court and dated 16 July 2024 [**SC8/15/104**], was forwarded to the Joint Administrators by the Court on the same day. We have not yet had an opportunity fully to consider this letter but will do so and respond if appropriate, in due course.

(D) Fourth letter

72 On 14 July 2024, Mr Stone received an email enclosing a letter addressed to the Court from another client and his wife, who have suffered substantial losses in connection with WealthTek's failure **[SC8/16/105-112]**. The letter made clear the suffering of WealthTek's clients and raised a number of issues which are unrelated to the approval of the Distribution Plan.

73 This client nevertheless raised two points which directly refer to the Distribution Plan and therefore warrant mention, for present purposes:

(a) in the context of a prior statement on behalf of the Joint Administrators contained in the JAs' Counsel's Skeleton Argument (at paragraph 48) in relation to the Distribution Plan having been approved by the Committee *"as is required by the Rules"*, and developed in consultation with both the FCA and the FSCS, the client raises the following question: *"Whose rules? All the parties mentioned above are integrated and reliant on each other for financial control via the FCA. So would it not be normal for them to be in agreement with each other prior to any actions"*; and

(b) he further states, with reference to the Distribution Plan: *"The FCA via BDO have informed WealthTek Clients [that] any loss on ISA coverage should be their own responsibility. It is the responsibility of the ISA owner to discuss this with the HMRC… I consider this a very important part of the Distribution Plan which the "Committee" are trying to side step"*.

74 On the client's first point, the Rules referenced are the IBSA Rules, i.e. the Investment Bank Special Administration (England and Wales) Rules 2011. Rule 145 (*Approval by the creditors' committee*) of the IBSA Rules contemplates Committee approval of the Distribution Plan. It is correct to say that approval by a creditors' committee of a distribution plan is not a firm prerequisite to approval of the distribution plan by the Court. In particular, I note that rule 146(5)(a) contemplates the possibility of Court approval of a distribution plan in circumstances where (for example) the creditors' committee has been unable to approve the distribution plan and has been given an opportunity to explain to the Court why this is the case. However, I would expect that that would only occur in rare instances and, in any event, Committee approval has in fact been obtained in the present case, so the point does not arise.

75 The concern in the client's second point above is not wholly clear to the Joint Administrators, and we will endeavour to engage with the client in short order in order to fully understand and, to the extent we are able, address this concern. It is nonetheless relevant to note that certain Client Assets are subject to so-called "tax wrappers", such as Individual Savings Accounts (i.e. ISAs). The Joint Administrators' approach to the tax treatment of those Client Assets is summarised in

paragraph 2.20 and 2.21 of the Explanatory Statement (under the heading *"What about tax wrappers and capital gains tax?"*), as follows:

> 2.20 Certain of the client assets that will be returned are subject to tax wrappers such as ISAs. Each case will turn on its facts and the nature of the client assets held and the tax wrappers to which they are subject, as well as the individual affairs of particular clients. Nevertheless, for example, there might be time-limits which apply to transferring certain types of investments to other brokers, to which clients should have regard. Clients should therefore consider their own positions carefully in order fully to understand the consequences for them of the taking of particular actions, or the failure to take any particular course of action.
>
> 2.21. It is important that you get appropriate advice on your own tax affairs, including what the distribution plan means for you from a tax perspective. This remains your responsibility throughout the process and the joint administrators will not have responsibility in this regard.

76 The Joint Administrators do not represent individual clients and are not in a position to advise individual clients in relation to their tax affairs. Nonetheless, our Tax colleagues at BDO have been in discussions with His Majesty's Revenue and Customs (**HMRC**) in relation to the tax treatment of certain transactions contemplated by the Distribution Plan in order to ascertain whether additional meaningful guidance can be provided by HMRC and passed onto clients by the Joint Administrators where appropriate. As matters stand, we are not able to provide any assurance to clients beyond that which is stated above. I note that this is consistent with the approach taken by administrators in previous investment bank special administration cases. Significantly, for present purposes, I note that the tax treatment of particular Client Assets is a feature of the assets themselves and the terms on which they were held by WealthTek. It is not directly related to the Distribution Plan. It is nonetheless an issue which has been identified in the course of the special administration and which the Joint Administrators have discussed, and corresponded about, with the members of the Committee at some length. Accordingly, therefore, contrary to the suggestions made by this client, the treatment of Client Assets subject to tax wrappers is not dealt with in the Distribution Plan and there is no sense in which the JSAs or, as far as I am aware, any other party, is trying to "side-step" the issue in any way. I should be clear that this is not a matter which falls within the competence or responsibilities of the Committee, contrary to the suggestion that has been made.

77 The Joint Administrators acknowledge that this client raises some serious questions in relation to the circumstances of WealthTek's failure (which are not related to the Distribution Plan) that warrant a careful and detailed response, to ensure that his points are appropriately addressed

and/or explained, to the extent the JSAs are able to do so. We are in the process of preparing a response to the letter and aim to send it to this client in short order.

(E) Email to the Joint Administrators

78 On 15 July 2024, I received an email from Mr Jonathan Gain, the Chief Executive of Stellar Asset Management Limited, an FCA-regulated investment manager which has a discretionary investment management mandate in respect of approximately 400 clients of WealthTek **[SC8/17/113]**. In his email, Mr Gain confirmed full support for the Distribution Plan, as follows:

> I wish to confirm to the court that we are fully supportive of the distribution plan prepared by BDO, the JSAs, and tabled before the court.
>
> We would welcome the court's approval on 23 July 2024.

79 Mr Gain is a member of the Committee in his personal capacity. However, Mr Gain's email was sent on behalf of the clients whom Mr Gain represents on behalf of Stellar Asset Management Limited, and not in his capacity as a Committee member.

(F) Attendance at Relisted Hearing

80 In each of my responses set out above, I provided the clients or the clients' representative with the details of the Relisted Hearing, in case such clients wish to attend.

81 One client responded, notifying me that he and his wife will not attend or be represented at the Relisted Hearing. No other responses were received and neither I nor my team have received any further communication from any of the persons mentioned above.

E. Various other updates

(i) Agreement with the identified broker

82 As I explained in paragraph 30 of Crooks (3), an FCA-regulated broker has been identified that represents the most suitable candidate for WealthTek's clients.

83 Following negotiations, on 17 July 2024 the asset transfer agreement was entered into between, among others, WealthTek and the broker in question. The Joint Administrators expect to confirm the identity of the broker to clients prior to the Relisted Hearing, which we propose to do by an update posted on the Website.

84 The Joint Administrators intend to write in due course to all clients who have not opted out of a Transfer (as defined in the Distribution Plan), informing them of the onboarding steps with the nominated broker and providing them with the nominated broker's contact details to allow clients to liaise with, and ask any questions directly to, the nominated broker.

85 Accordingly, if the Distribution Plan is approved by the Court at the Relisted Hearing, the onboarding process should be able to commence in relatively short order.

(ii) FCA consent

86 As confirmed in paragraph 11 of Crooks (4), the Joint Administrators have sought, and the Financial Conduct Authority has provided, in its letter to me dated 5 June 2024, consent to WealthTek conducting such regulated activities as are necessary to give effect to returns of Client Assets held by WealthTek under the Distribution Plan and the distribution by the Joint Administrators of Client Money under CASS 7A, notwithstanding the requirements stipulated in the First Supervisory Notice dated 4 April 2023 [**SC8/18/114-123**].

87 The Joint Administrators have been in discussions with the FCA with a view to the provision of consent by the FCA to modification of the requirements of CASS 7A.2.4R and CASS 7A.2.7-AR, pursuant to section 138A of Financial Services and Markets Act 2000 (**FSMA**), such that any unclaimed Client Money held by WealthTek by the Long-Stop Date may be paid by WealthTek into the Insolvency Services Account (each as defined in the Distribution Plan; being, in the case of the latter, a bank account maintained by the Insolvency Service, the ordinary purpose of which is for the deposit by insolvency office-holders in insolvency proceedings generally of unclaimed dividends) (the **CASS Waiver**).

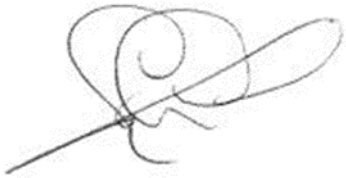
88 The Joint Administrators are in the final stages of preparing an application under section 138A of FSMA for the CASS Waiver and expect to submit the application before the Relisted Hearing. As I set out in paragraph 12 of Crooks (4), this waiver will only become necessary on and from the Long-Stop Date (as defined in the Distribution Plan). Since the Long-Stop Date – in short, the future date on which the Joint Administrators certify that they have achieved Objective 1 under Regulation 10, to the extent reasonably practicable – is not projected to occur for some time (and likely at least well into 2025), the granting of the CASS Waiver is not considered by the Joint Administrators to be time-critical for the purposes of the approval of the Distribution Plan.

89 No equivalent of the CASS Waiver is required in respect of the proceeds of Client Assets following their liquidation on the occurrence of the Long-Stop Date. Subject to the Court's approval of the Distribution Plan, such proceeds will instead be paid into the Insolvency Services Account in accordance with clause 8.3 of the Distribution Plan.

Filed on behalf of the Applicants
Shane Michael Crooks
17 July 2024
“SC8”

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: 

SHANE MICHAEL CROOKS

Date: 17 July 2024

Filed on behalf of the Applicants

Shane Michael Crooks

17 July 2024

"SC8"

CR-2023-001772

IN THE HIGH COURT OF JUSTICE

BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES

INSOLVENCY & COMPANIES LIST (CH.D.)

IN THE MATTER OF WEALTHTEK LIMITED LIABILITY PARTNERSHIP

IN THE MATTER OF THE INVESTMENT BANK SPECIAL ADMINISTRATION REGULATIONS 2011

EIGHTH WITNESS STATEMENT OF SHANE MICHAEL CROOKS

NRF LLP (Ref: 1001250014)

3 More London Riverside

London SE1 2AQ

Tel: +44 20 7444 3803

Solicitors for the applicants