

## **JONATHAN YORKE LLB (HONS) – SOLICITOR**

This Report has been provided to ALL Scheme Limited solely for the purpose of being produced to the Court at the Convening Hearing and subject to the terms of my engagement with Amigo Holdings PLC. I assume no duty or responsibility to, and I accept no liability whatsoever to, any third party (including without limitation, any Scheme Creditor or any of the media organisations mentioned in this report) under or in connection with this report and/or my role as Customer Advocate or otherwise.

### **INDEPENDENT CUSTOMER ADVOCATE – REPORT RELATING TO POTENTIAL ISSUES ARISING IN RESPECT OF THE APPLICATION FOR LEAVE TO CONVENE A SCHEME MEETING.**

3 MARCH 2022

## **1. INTRODUCTION**

### **1.1. Experience**

I have practiced as a solicitor for almost 35 years. For the last 25 years I have advised extensively in relation to schemes of arrangement for financial services companies. I am fully cognisant of the issues arising in relation to the implementation of schemes of arrangement for such companies and the issues facing the creditors of those companies when considering whether a scheme is a viable route forward. A copy of my brief CV is at Appendix 1 to this report.

Most recently, I acted as the Customer Advocate in respect of the scheme of arrangement proposed by Provident SPV Ltd. That scheme raised similar issues to those arising in the schemes proposed by ALL Scheme Limited.

### **1.2. Background**

- 1.2.1. ALL Scheme Limited ("**the Company**") was incorporated on 6 January 2021 and is part of the Amigo Holdings PLC ("**Holdings PLC**") group. The Company has proposed two schemes of arrangement under Part 26 of the Companies Act 2006 ("**the Schemes**") in respect of (i) certain current and past customers and guarantors of Amigo Loans Limited ("**Amigo**"), (ii) certain current and past customers and guarantors of Amigo Management Services Limited ("**AMSL**"), Holdings PLC and the Company, and (iii) the Financial Ombudsman Service ("**FOS**") (together "**Scheme Creditors**").

1.2.2. Amigo provided guaranteed mid-cost credit and online loans to consumers in the UK.

1.2.3. Amigo has suffered financial difficulties for the last two years. It has been the subject of an increasing number of consumer complaints made against it for loans which it may have issued incorrectly. Amigo was required to ensure that, amongst other things, loans given and guarantees taken met certain creditworthiness requirements; and in certain cases, Amigo may have failed to meet these requirements. This has resulted in a number of complaints made against it for breach of the regulatory requirements applying to them. As a consequence, Amigo has made a number of compensation payments to consumers in recent years.

1.2.4. The purpose of the proposed Schemes, as described in section one of the Explanatory Statements, is as follows:

“The first scheme being proposed is called the New Business Scheme and has two potential outcomes. The main terms of the New Business Scheme were shaped through speaking to a committee of Amigo’s customers who represented their interests (the ‘Customers’ Committee’).

- First, the ‘Preferred Solution’ – Amigo will try to raise new funds by selling shares and to start lending again. Amigo believes this will provide more compensation than would otherwise be available in other outcomes. Even so, not every customer that Amigo owes money to will be paid the full amount they are owed. Also, because Amigo might not be able to restart lending again or raise money, this option might not go ahead.
- Second, the ‘Fallback Solution’ – if the Preferred Solution does not work (for example if Amigo is unable to raise money through selling its shares), Amigo’s business will be wound down, with no new money to pay customers owed compensation and Amigo will be ‘liquidated’. A wind down means that Amigo will go out of business. Amigo will still collect money owed from the loans which it has already made, and this money (but not any new money) will be paid to all the customers it owes money to. However, customers will not be paid in full and they are likely to receive less than they would under the Preferred Solution.

The second, standalone scheme being proposed at the same time is called the Wind-Down Scheme, which is essentially the Fallback Solution on its own and does not involve trying the Preferred Solution first. The Wind-Down Scheme could be implemented if Customer Creditors (which here and throughout this document means Amigo’s customers who have a right to

compensation but also includes the Financial Ombudsman Service (the 'FOS')) or the Court do not approve the New Business Scheme. Together, the New Business Scheme and the Wind-Down Scheme are called the 'Schemes'."

1.2.5. The Company is jointly and severally liable with Amigo, Holdings PLC and AMSL in respect of the claims of the Scheme Creditors pursuant to the terms of a deed poll dated 9 December 2021 ("**the Deed Poll**").

1.2.6. I have been engaged by Holdings PLC to act as an independent Customer Advocate. I should point out that whilst I have been engaged by Holdings PLC (under the terms of an agreement dated 1 December 2021 ("**the Agreement**")), I am to perform my role on an impartial basis and that I am independent from Holdings PLC, the Company, Amigo and AMSL. In addition, I am free to reach such conclusions in relation to the issues covered by this report as I see fit.

1.2.7. Further details about the scope of my role are set out in paragraph 1.3 below.

1.2.8. The Company is required to send a practice statement letter (pursuant to the Practice Statement (Companies: Schemes of Arrangement) [2020] 1 W.L.R. 4493) to all Scheme Creditors. This letter ("**the PSL**") is required to inform any person affected by the Schemes that the Schemes are being promoted and to provide the following information:

- a) the purpose and effect of the Schemes;
- b) details of the meetings of creditors required and their composition, and the matters to be addressed at the convening hearing on [16] February 2022 ("**the Convening Hearing**") including those matters at paragraph 6 of the practice direction (this is set out at Appendix 2 to this Report);
- c) the date and place of the Convening Hearing and the fact that the recipients of the letter are entitled to attend the convening and sanction hearings; and
- d) how such persons can make further enquiries in relation to the Schemes.

1.2.9. A link to the PSL relating to the Schemes was sent by e-mail and text message to Scheme Creditors on or shortly after 14 December 2021. It has also been posted on the Scheme website, namely: <https://www.amigoscheme.co.uk/> In addition, newspaper advertisements advertising the Schemes and the fact that the PSL could

be viewed on the Scheme website were placed in the Daily Mail and Mirror newspapers.

1.2.10. If the Company is given leave to convene meetings of Scheme Creditors at the Convening Hearing it will be required to send links to the Scheme documents (which contains the legal terms of the Scheme) together with explanatory statements (“**the Explanatory Statements**”) on the Scheme website, which must explain the terms of the proposed Schemes in simple terms) to the Scheme Creditors.

1.2.11. I have been informed by the Company that if the Court gives leave to convene meetings of Scheme Creditors the meetings will be held in April 2022. [Given the Covid pandemic, the meetings will be held remotely]. I also understand that, subject to the votes cast at the meetings of Scheme Creditors, the Company intends to seek sanction from the Court in May 2022 (“**the Sanction Hearing**”).

1.2.12. The Company has proposed that the Scheme Creditors be placed into a single class for the purpose of considering and voting on each of the Schemes at the meetings of Scheme Creditors.

### **1.3. The Role of the Independent Customer Advocate**

1.3.1. A copy of my Agreement, which sets out the terms of my engagement as Customer Advocate, appears at Appendix 3 to this report.

1.3.2. Under the terms of my Agreement, I am obliged to consider the representations that have been made by the Scheme Creditors. In order to consider the representations made by Scheme Creditors, I am obliged to review e-mails sent to my e-mail address [jy@amigoca.co.uk](mailto:jy@amigoca.co.uk). This address is set out in the PSL and Scheme Creditors were invited to send me an e-mail if they:

- a) Have a legal objection to one or both of the Schemes; or
- b) Disagree that the Company’s creditors can consider, and vote on, one or both of the Schemes in the same class; or
- c) Intend to attend the Convening Hearing.

I am also required to review communications received by Amigo together with information provided to Scheme Creditors on the scheme website referred to above together with any representations made by Scheme Creditors that are posted to the scheme website.

- 1.3.3. I am also obliged to engage with media bodies and consumer protection groups identified by the Company in order to understand any concerns they may have in relation to the Schemes.
- 1.3.4. Once I have reviewed the Scheme Creditors' correspondence and engaged with the relevant media bodies and consumer groups I must produce a report (i.e., this report) which summarises any objections, challenges or comments insofar as they are relevant to the issues to be considered at the Convening Hearing.
- 1.3.5. To be clear, I am not required to give an opinion on whether I consider the Scheme to be fair or in the best interests of the Scheme Creditors. I am also not required to include in this report matters raised by the Scheme Creditors (etc.) which are not relevant to the issues to be considered at the Convening Hearing. I have, however, agreed to report on other matters, such as fairness, which have been raised by those stakeholders. I address this in section 4 below.
- 1.3.6. I must then attend the Convening Hearing represented by counsel in order to answer any questions the Court may have about my role as Customer Advocate and the work I have done.
- 1.3.7. After the Convening Hearing I must write a short report to Scheme Creditors summarising the responses received from Scheme Creditors, relevant media bodies and consumer groups, together with the decision of the Court. That report will be published on the Scheme website.
- 1.3.8. It is important to note that in respect of my role as Customer Advocate it has been specifically agreed that:
- a) I will act in an independent capacity and will not have any regard to the interests of Holdings PLC, the Company, Amigo, AMSL or their advisers in promoting the Scheme;
  - b) I will owe no duty and will incur no liability to Holdings PLC, the Company, Amigo or AMSL in the event that my Report contains adverse comments relating to the Scheme or in the event the Scheme is not approved by the Scheme Creditors or sanctioned the Court;
  - c) I will make the terms of my Agreement freely available to the Scheme Creditors and the Court in order to demonstrate my independence from Holdings PLC, the Company, Amigo and AMSL; and

- d) the Company, Amigo and AMSL will provide me with reasonable access to their books, records and other resources so as to enable me to perform my role.

1.3.9. I am not obliged to consider issues of a regulatory nature in connection with the Scheme or to engage with any regulators of the Company, Amigo or AMSL (including the Financial Conduct Authority or FOS). I understand that the FCA may be appearing by counsel at the Convening Hearing and/or any sanction hearing to make its position clear.

1.3.10. Finally, my role as Customer Advocate does not affect or in any way limit the rights held by the Scheme Creditors in respect of the Court process for the approval of the Scheme. In particular, my engagement does not prevent any Scheme Creditor from seeking to make their own representations at the Convening Hearing or (if one is listed) the Sanction Hearing.

#### **1.4. Report Methodology**

1.4.1. The purpose for which this report is prepared is to assist the Company, Holdings PLC, Amigo, AMSL and the Court to consider and respond to customer comments and observations on the Schemes, together with responses from media bodies and consumer protection groups, insofar as such matters are relevant to the issues to be considered at the Convening Hearing.

1.4.2. It is anticipated that this report will be placed before the Court in order to assist the Court in considering the position of the customers and other interested parties. This report is produced without prejudice to the Company's duty to draw the Court's attention to any relevant issues as part of its duty of full and frank disclosure under the Practice Statement.

1.4.3. In preparing this report, I have taken the steps set out below.

1.4.4. First, I have reviewed 217 e-mails sent to me at the e-mail address referred to above. I have replied and will continue to reply to all the e-mails sent to me. I have also had a telephone conversation with one creditor. As to these communications:

- a) None of the e-mails (or the call) raised any objection to the fact that the Company is proposing a single class of creditors in each of the Schemes.
- b) As at the date of this report, 16 Scheme Creditors have informed me that they intend to appear at the Convening Hearing. I have e-mailed those Scheme Creditors to inform them that the hearing will take place on Tuesday 8 May at the High Court in Rolls Building.

- c) 17 e-mails voiced support for the New Business Scheme, i.e., option 1 as set out in the PSL.
- d) 9 e-mails voiced general objections to there being any scheme at all. By way of example, a creditor stated *"I'm writing to that I have used amigo loans and will like to object on this matter. I did very much think the scheme wasn't fair and incorrectly calculated, at one point I did have to take out another loan to paid this it."* Another creditor wrote a detailed e-mail on behalf of her daughter who had taken out an Amigo loan and asked that it is read out in Court. I agreed with her that I would exhibit a redacted copy of her e-mail to this report. These particular emails are set out in Appendix 4 to this report.

1.4.5. Second, I conducted a review of the scheme website referred to above. The website contains a short animated video presentation that explains in simple terms how it is proposed that the Schemes will operate. The website also provides a series of frequently asked questions ("**FAQs**") and provides replies to those questions. The website states that, whilst the Company cannot reply to individual questions, it invites Scheme Creditors to submit questions. Amigo has supplied me with a spreadsheet that shows that 505 questions or comments were raised by Scheme Creditors. Of these 250 wanted to make a claim or vote in relation to the Scheme. One wants to attend the hearing. Six object to any Scheme at all and nine said they were confused or did not understand the Scheme. I not seen any questions or comments relating to voting classes of creditors in the Schemes.

1.4.6. Third, I have watched two videos posted on the YouTube website consisting of presentations by Jamie Drummond-Smith, the chairman of the customers committee for Amigo Loans. The first of these lasts 18 minutes 40 seconds and is a detailed explanation of the terms of the proposed Schemes. This video has received 6,129 views as at the date of this report. The second is a shorter video which explains the composition and role of the customers committee and lasts 3 minutes 3 seconds. This video has received 18,708 views as at the date of this report. These videos set out the composition of the customers committee and how that committee has negotiated with Amigo to increase the amount of compensation from £35 million in the scheme put forward last year and from the £55 million originally offered by Amigo in relation to the New Business Scheme. The longer video contains detailed explanations of the negotiations between that committee and Amigo and sets out how the figure of £112 million was arrived at and why the committee preferred that compromise to others that it considered. They are both clear statements of what the customers committee has achieved and how it was done.

1.4.7. Fourth, I have watched a video presentation and question and answer session that took place live on Facebook on 26 January 2022 at which Nick Beal of Amigo explained the terms of the Schemes, how they affect the Scheme Creditors and answered questions that had been raised before the live session and which were also asked by

Scheme Creditors who were online when the session took place. I also watched a further video presentation on facebook that took place at 4:30pm on 3 March 2022 in which Nick Beal and Gary Jennison of Amigo explained details of the Schemes with a particular emphasis on the voting process. In addition I have reviewed 190 comments that have been posted on the Facebook page relating to the presentations and the proposed schemes generally.

1.4.8. Having considered the many steps that have been taken by the Company to bring the attention of the Scheme Creditors to the Schemes, I am of the view that reasonable efforts have been made to draw the existence of the Schemes to the attention of the Scheme Creditors. The degree of engagement with Scheme creditors is, in my experience (including my experience of acting as Customer Advocate in respect of the Provident SPV Ltd scheme), greater than I might expect to see.

1.4.9. Fifth, I have sought to engage with relevant media. I acknowledge that the media does not have any *locus standi* to appear in Court. The Company was, however, keen for me to get the views of the media in order to present a rounded response to assist the Court, Scheme Creditors and the Company in considering the Schemes. As to this:

- a) I have spoken to Sara Williams, who is the author of Debt Camel ("**Debt Camel**") a personal blog that covers debt advice. I have spoken to Ms Williams on a number of occasions since my appointment. The purpose of these calls was to make Debt Camel aware of my appointment, to hear what feedback (if any) it has received from Scheme Creditors and to obtain its views generally on the Schemes. Debt Camel is the only blog that focuses on the high and medium cost lending market.
- b) I understand that Money Saving Expert was asked by the Company to contact me in relation to the Scheme but I have not heard from them as at the time of finalising this Report. Money Saving Expert focuses more widely on the personal financial market than Debt Camel so may not have the detailed knowledge of the market.

1.4.10. Sixth, I have reviewed the following draft Scheme documents provided to me by Freshfields (i) the Explanatory Statement, (ii) the draft Scheme document, (iii) the Deed Poll, and (iv) the first witness statement of Nicholas Simon Beal in support of the Company's application for leave to convene the creditors' meeting, section G of which addresses the proposed composition of a single class of creditors.

## **1.5. Scope and Exclusion of Liability**

1.5.1. This report is provided to the Company so that it can be produced to the Court at the Convening Hearing on 8 March 2021. No Scheme Creditor should construe the



contents of this report as containing legal, financial, tax or other professional advice. A Scheme Creditor should consult their own professional advisers as to the legal, financial, tax or other matters relevant to the actions they should take in relation to the Scheme.

1.5.2. Neither me as Customer Advocate nor any of my advisers, or other person acting on behalf of me, nor any of their respective successors, assume any duty or responsibility to, nor shall have any liability directly or indirectly whatsoever to, any party (including, but not limited to, any media organisation, Scheme Creditors and any intermediaries acting on behalf of any Scheme Creditors (including any claims management companies)) other than the Company (and then only subject to the terms the Agreement) under or in connection with this Report and my role as Customer Advocate or otherwise.

## **2. CLASS COMPOSITION**

### **2.1. General**

2.1.1. There is a wide body of case law concerning scheme class composition matters. For the purpose of reviewing customer feedback on the Schemes, I have had in mind the following principles:

- a) A voting class must be confined to those persons whose rights are not so dissimilar as to make it impossible for them to consult together with a view to their common interest.
- b) In forming a view in this regard, it may be helpful to consider whether there is more that unites than divides the creditors in a proposed class.
- c) In each case, the answer to the relevant question will depend upon analysis of (i) the rights which are to be released or varied under the scheme; and (ii) the new rights (if any) which the scheme gives, by way of compromise or arrangement, to those whose rights are to be released or varied.
- d) The existing rights of a creditor are to be assessed by reference to the likely alternative to the scheme if it is not approved.
- e) The test is based on similarity or dissimilarity of legal rights against the company, not on similarity or dissimilarity of interests derived from such legal rights. The fact that individuals may hold divergent views based on their own private interests not derived from their legal rights against the company is not a ground for calling separate meetings.

- f) Where, as in this case, a scheme is proposed by a company which has assumed joint liability for creditor liabilities pursuant to a deed poll, the Court should have regard to creditors' rights against third party co-obligors (in this case, (in this case, Amigo, AMSL and Holdings PLC) when determining the question of class composition.

## **2.2. Position of the Company**

2.2.1. The Company is proposing that there is a single class meeting of Scheme Creditors.

2.2.2. The reasons for this are set out in paragraph paragraphs 15 to 18 of Part B and Appendix One of the PSL and in section G of Nicholas Simon Beal's first witness statement. In summary, they are:

- a) all of the Scheme Creditors have the same rights against the Company, Amigo, Holdings PLC and AMSL, namely an unsecured right to be paid compensation;
- b) the rights of all of the Scheme Creditors against the Company, Amigo, Holdings PLC and AMSL will be affected in the same way; and
- c) if neither of the Schemes were to proceed, the Company, Amigo, Holdings PLC and AMSL are likely to enter insolvency proceedings with the consequence that the Scheme Creditors' rights would rank equally as unsecured creditor claims. The Company currently estimates that Scheme Creditors would receive more if the Schemes were approved than they would in an administration or liquidation: paragraph 26 of Part B to the PSL.

## **2.3. Comments Received from Scheme Creditors**

2.3.1. From the review I have conducted of the communications received from Scheme Creditors, no objections to or comments on the proposed single class of Scheme Creditors in each of the Schemes have been made by the Scheme Creditors.

## **2.4. Comments Received from Debt Camel**

2.4.1. Debt Camel indicated that it has not received any comments relating to class composition issues and that it has no issue with the proposed single class of Scheme Creditors in each of the Schemes.

# **3. PROCEDURAL ISSUES**

## **3.1. Comments Received from Scheme Creditors**

3.1.1. From the review I have conducted of the communications received from Scheme Creditors, no objections to or comments on procedural issues have been made by the Scheme Creditors. In particular, none of these communications contains comments on the timing of the Scheme approval process or suggest that inadequate notice has been given.

3.1.2. I can confirm that, from my review of e-mails from Scheme Creditors, 4 indicated that they did not understand the PSL or the Scheme process. For instance, one was from a creditor who stated that she is elderly and suffering from stress and did not understand what she was reading. Another was from a creditor who stated that the message from Amigo was long and she did not know how to proceed. I include a copy of all four of these e-mails at Appendix 5

### **3.2. Comments Received from Debt Camel**

3.2.1. Debt Camel did not express any concerns as to the timing of the Scheme approval process. On the contrary, Debt Camel would favour a speedy implementation of either of the Schemes so as to enable as many Scheme Creditors as possible to receive payments.

3.2.2. Debt Camel is concerned, however, that a number of Scheme Creditors (particularly those whose loans were repaid some time ago) may not be aware that the Schemes are being proposed. Debt Camel suggested that a significant online advertisement campaign may deal with this.

3.2.3. Debt Camel has raised an issue with the valuation of claims for voting purposes. The proposed voting valuation methodology provides that votes will be valued at the amount by which a borrower's aggregate repayments exceed the aggregate amount of principal advanced on the loans, plus 8% p.a. interest from the time of each payment after the principal has been repaid (which, as I understand it, is broadly the basis of valuation of claims that the FOS uses where there is no outstanding balance due on the loan). If there is an outstanding balance due the approach taken by FOS is to remove all interest and charges paid to date leaving only the principal amount and then deduct the interest and charges paid by the borrower. This may leave a balance due to or from the borrower. If the balance is due to the borrower that is the amount the lender must pay, together with interest at 8%. If there is still a balance due from the borrower, the borrower must repay that amount. As I explain below, a borrower who has a net balance due to the Company would be treated in the same way in the Schemes and in the event of an administration. As a result, such a borrower has no economic interest in the Scheme, and this explains why his or her vote would be valued at £1.

3.2.4. Debt Camel is concerned that the valuation of claims for voting purposes set out in paragraph 3.2.3 above fails adequately to reflect the importance of the vote for people with current loans. Debt Camel's concern, as expressed to me, is that the votes of these Scheme Creditors will (in the scenario described above) be valued at £1; and these Scheme Creditors will gain much less from the Schemes than they would in insolvency proceedings as a result of the set-offs that would apply in that scenario. By way of clarification Debt Camel has asked me to include the following comment in this report:

*"The proposed weighting is the typical approach used in Schemes, however these Amigo Schemes are unusual in that a significant number of the creditors have the right of set off for amounts which are large compared to their potential cash redress in a Scheme or administration. An alternative measure should be adopted that would more fairly take account of the true economic interest to customers with a current balance.*

*A simple example:*

*Mr A repaid a £1000 loan and paid £600 in interest. His vote would be given a weight of 600 in the Scheme.*

*Mr B has a current loan of £10,000 and has repaid £7000, with a balance outstanding of £14,000. If his claim is upheld in the Schemes or administration, his balance would be reduced to £3000. To Mr B, his financial interest in the outcome of their claim is obviously £14,000 less £3,000 = £11,000. But his vote would be given a weight of just 1 in the Scheme.*

*By any reasonable assessment, the outcome of the voting is massively more important to Mr B than Mr A, so the weights given should reflect this.*

*The fact that Mr B may get the same outcome in a Scheme or insolvency is not relevant – Mr B is entitled to vote for what he would prefer and it is the weighting of his vote that is of concern.*

*Mr B may consider his claim is more likely to be upheld by Amigo or more likely to be upheld by administrators – that is his decision to make.*

*Mr B's experience of dealing with Amigo in the past may mean that he prefers to deal with administrators. And the absence of any clear explanation from Amigo about how they will determine a claim, and the possible deduction for unpaid interest (see 4.3.4 below) may mean Mr B feels he will get a better financial result from administration."*

3.2.5. My understanding, following discussions with the Company, is that this has been done because the economic interest of Scheme Creditors such as these (i.e., such as 'Mr B' in Debt Camel's example) in the outcome of the Schemes and in insolvency proceedings would be broadly the same, hence the low weighting applied to their votes. That approach appears to me to be a reasonable one for the Company to take.

3.2.6. Debt Camel has not yet seen a copy of the Explanatory Statement or the Scheme document. However, Debt Camel has reviewed the PSL and is concerned that it may be too complex, whilst nonetheless appreciating that certain information needs to be set out in it. Debt Camel expressed concern that the Explanatory Statement may also be too complex for Scheme Creditors to understand. Debt Camel is concerned that few creditors may have read and understood the PSL and, therefore, few may understand how Scheme Creditors' claims are to be determined or how the 42p/£ estimated dividend has been arrived at.

3.3. As I mentioned above, I have reviewed the Explanatory Statement. To fairly explain the Scheme and the Scheme process using uncomplicated and non-legalistic language and without omitting important information as required by the Court is plainly a difficult exercise. Having reviewed the Explanatory Statement, I am satisfied that this document complies with the requirements of paragraph 14 of the Practice Statement. In particular, in my opinion the Explanatory Statement explains, in a reasonably concise and simple way, the commercial impact of the proposed Scheme and provides the Scheme Creditors with the information they need to decide whether or not the Scheme is in their interests, and how to vote on it.

## **4. OTHER MATTERS**

### **4.1. General**

4.1.1. Under my Agreement, it is not part of my role to express any opinion on whether the proposed Schemes are fair or in the interests of the Scheme Creditors. I am, however, obliged to report back separately to the Company on other matters, such as fairness, raised by Scheme Creditors or the media. I have agreed with the Company to include such matters in this Report, and I set out below those I consider the most relevant.

4.1.2. In this respect, I have borne in mind the following principles which are relevant to whether or not the proposed Schemes will ultimately be sanctioned by the Court:

- a) At the Sanction Hearing (if one is listed), the Court will consider whether the proposed Schemes are fair ones which a creditor could reasonably approve. I understand that this issue will generally be considered from the perspective of the intelligent and honest person who is a member of the class of Scheme Creditors and who is acting in respect of his or her interest.
- b) The Court will also consider at that hearing whether there is any 'blot' on the Schemes. I understand that this enables the Court to take into account, where appropriate, a potentially wide range of factors when considering whether to sanction the Schemes, including its commercial and factual context and any consequences of it.

## **4.2. Comments Received from Scheme Creditors**

- 4.2.1. From my review of comments received from Scheme Creditors, I have seen that the majority, if not all, the negative comments or objections relating to the Schemes are either that any attempt to pay less than 100% of the value of the Scheme Creditors' claim is felt to be unfair or that it is unfair to wait until 2023 to be paid any compensation. I have seen 10 such comments to this effect.
- 4.2.2. In my view, these matters do not go to the fairness of the proposed Schemes. Rather, they are a consequence of the Company having to rely on an injection of funds in the New Business Scheme or in the case of the Wind Down Scheme the funds realised by winding down the loan business both of which will be insufficient to pay all Scheme Creditors in full together with the inevitable delay that the process to implement the Schemes will cause to those creditors who have already submitted claims.
- 4.2.3. I should also point out that a number of the Scheme Creditors' comments<sup>1</sup> indicate that the creditor concerned is likely to participate in the Schemes or would be interested in receiving more details. In addition, I have seen many comments to the effect that creditors have been unable to register to participate in the Scheme process, from which I infer that they intend to register their interest. No doubt the Company will have data available as to how many Scheme Creditors have registered an interest in the Schemes. I am conscious that I should put forward the interests of these Scheme Creditors as well as those who have raised objections to the Scheme.

## **4.3. Comments Received from Debt Camel**

- 4.3.1. Debt Camel has provided me with a number of comments that it believes go to the question of whether the Schemes are fair. I have considered those comments and concluded that they are similar to those put forward by the Scheme Creditors. I do not believe that these matters go to the fairness of the proposed Schemes. Rather, they are comments on issues that will, if the Court gives leave to convene a Scheme meeting, be considered by Scheme Creditors when deciding how to vote at that meeting. Nonetheless, for completeness I set out Debt Camel's comments below.
- 4.3.2. The PSL states that all repayments from Scheme Creditors who have an outstanding complaint as at 30 November 2021 or who make a complaint after that date will have their repayments made after those dates paid into a trust account. This means that if their claim is successful they will have the benefit of set-off and will receive back 100 per cent of those repayments (to the extent of the cash compensation due to them). Debt Camel has suggested that, for three reasons, all repayments received after 30

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<sup>1</sup> Arising from the reviews I describe in paragraph 1.4.4 to 1.4.7 above.

November 2021 should be paid into the trust account, whether or not those borrowers or guarantors make a complaint and ultimately become Scheme Creditors. First, Debt Camel says that it is unclear who the Company will regard as having an outstanding complaint for these purposes. Second, Debt Camel says that the Company has not been encouraging customers to make complaints and it has stated that any new complaints will not be considered until the Scheme is live. Debt Camel is concerned that very few people may have read or understood p.8 of the PSL (which refers to the trust account), or appreciated the importance of immediately making a complaint to safeguard their position. Relatedly, Debt Camel states that the Company has not highlighted this in its communications with customers. Third, Debt Camel is aware that some customers have made a complaint but have been told by the Company that there is no record of this. As a result, there is risk that certain customers will consider their position to be safeguarded whereas the Company in fact has no record of their complaint.

- 4.3.3. The Company and I can see issues with the approach proposed by Debt Camel in that it could mean that repayments that are made by borrowers who turn out to be Scheme Creditors will be preferred over other creditors if the Company enters administration. There would probably not be a preference for the purpose of s.239 of the Insolvency Act 1986 as it is unlikely that there is a desire to prefer, but the directors of the Company need to have regard to the interests of all creditors if an insolvency proceeding may go ahead. In any event, I do not consider that this issue goes to the fairness of the Schemes.
- 4.3.4. Debt Camel has extensive experience in the high and medium cost loan market. It is aware that Amigo is proposing to make certain deductions from redress claims that it terms “deductions for unpaid interest”. This occurs when a borrower who has a loan that was affordable took out further unaffordable loans that were used to repay the existing affordable loan. Debt Camel understands that Amigo is proposing to deduct the interest rebate that the borrower received when the affordable loan was repaid early from the costs and interest it is obliged to refund on the unaffordable loans.
- 4.3.5. Debt Camel makes the following comment in this respect:

*“First the “unpaid interest deduction” is based on the assumption that if an Amigo loan had not been refinanced, the payments would continue to have been made. But in very many cases people asked to “top up” their Amigo loan because they were in financial difficulty; if the top up had not happened, the guarantor may well have become involved and would often have cleared the loan to avoid the further high interest charges. It cannot be assumed that most loans would have continued to run to the end, with Amigo earning interest from them. Secondly, FOS has made probably tens of thousands of decisions on the basis that there should be no deductions*

*such as this. No high cost credit loan administrations or Schemes has made deductions “for unpaid interest” – for example it is not being used in the Provident Financial Group Scheme where a very large number of the redress claims would involved loans being refinanced.”*

4.3.6. Debt Camel has also provided me with a link to the decision of the Financial Ombudsman in a claim brought by Mrs W against Oakbrook Finance Limited trading as Likely Loans<sup>2</sup>. I have considered that decision and, in my view, it does not appear to reflect the general position under English law in that where a claim for damages is successful the party making the claim should be put back into the same position it would have been in had the wrong not taken place. In any event, I do not consider this to be a matter which goes to the fairness of the Schemes in the sense mentioned in paragraph 4.1 above.

4.3.7. Debt Camel has expressed its strongly held view that the illustrative potential dividend of 42 per cent may be too high. Debt Camel feels that this may mislead Scheme Creditors to vote in favour of the Schemes. In Debt Camel’s view, a 42p/£ dividend appears unlikely unless the methodology for agreeing claims in the Schemes is substantially different from that used by FOS to date (in which case Debt Camel believes the methodology should be explained in detail to enable creditors to assess how it might work in their situation). Debt Camel has pointed out that to arrive at any figure such as 42p, the Company must have made assumptions about how many creditors would make a claim and what percentage of loans would be upheld. In that respect, Debt Camel considers that the Company’s reference to 65% of claims being upheld is not particularly relevant because many claims involve multiple loans. Debt Camel points out that a similar scheme, Instant Cash Loans, was promoted where the estimated dividend of 80% has proved to be far higher than the dividend of 4% that was eventually paid. I have pointed out to Debt Camel that the likely dividend can only be estimated at this stage and that it is up to the creditors to weigh up the potential dividend prospects.

4.3.8. Scheme Creditors with older loans or guarantees that may have been repaid or discharged may not have received notice of the Scheme or will have received notice but think their involvement with Amigo is over and will therefore not bring a claim. I have seen a number of queries from borrowers and guarantors who have repaid their loans or satisfied their guarantee. I have concluded that a significant number of them are aware of the Schemes.

4.3.9. Finally, I should point out that Debt Camel only agreed to speak to me on the basis that it would see my summary of its comments in this Report and seek to agree them with me. If no agreement can be reached I have agreed to put before the Court a

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<sup>2</sup> <https://www.financial-ombudsman.org.uk/decision/DRN9407885.pdf>



submission from Debt Camel so that its position can be brought to the attention of the Company and the Court.

## **5. CONCLUSION AND RECOMMENDATIONS**

5.1. I have seen no comments from either the Scheme Creditors or Debt Camel objecting to a single class meeting of Scheme Creditors.

5.2. The Company should carefully consider what it can do to draw the existence of the Schemes to the attention of the Scheme Creditors, should a meeting of creditors be convened. Consideration should be given to using social media platforms, such as Facebook and Instagram, to publicise the Schemes. In addition, communications with Scheme Creditors should be expressed as simply as possible so that as many of the Scheme Creditors as possible are able to make a reasoned decision as to whether or not to vote for the Schemes.

5.3. As set out in paragraph 4 above, comments have been made as to whether the proposed Schemes offer creditors a high enough or fast enough return on their claims. However, I have seen no objections as to the fairness of the Scheme or to any other matters that would, in my opinion, amount to valid objections to the Court granting leave to convene a single class/creditors' meeting.

.....  
Jonathan Yorke  
3 March 2022

## **APPENDIX I**

### **JONATHAN YORKE**

**DATE OF BIRTH:** 29th April 1962

**QUALIFICATIONS:**

- LLB(Hons) University of Essex 1983
- Solicitor 1986

**EXPERIENCE:** After qualifying as a solicitor I specialised in insolvency and restructuring work. I was involved in a number of the larger insolvencies that occurred during the recession of the early nineties. I became an equity partner in Richards Butler (now Reed Smith) in May 1992. I then became head of finance at the firm and served on the board and the remuneration committee. In 1997 I started to specialise in financial services related insolvency. Firstly, advising in relation to the insolvency of North Atlantic Insurance Company. In the following year I advised the administrators of Black Sea and Baltic Insurance Company. I have continued to specialise in financial services matters since then.

I have advised on many solvent schemes of arrangement for insurance companies including the largest by value and on the only solvent and insolvent schemes for insurance brokers. On the Minster Scheme I acted as chairman of the creditor meetings acting alongside the independent vote assessor.

In 2006 I left Richards Butler due to a significant conflict that arose on the then proposed merger with Reed Smith. I joined Barlow Lyde and Gilbert as head of Insolvency and served on that firm's board and on the remuneration committee. I joined Edwards Wildman in 2011 the London office of that firm was taken over by Cooley in 2015 and I retired from that firm in December 2018. In January 2019 I joined McCarthy Denning. I act as a non-executive director of Lehman Brothers International Europe. In 2021 I acted as customer advocate in relation to the Provident SPV scheme.

## **APPENDIX 2**

- 6** It is the responsibility of the applicant, by evidence in support of the application or otherwise, to draw to the attention of the court at the hearing for an order that meetings of creditors and/or members be held ("the convening hearing"):
- a. any issues which may arise as to the constitution of meetings of members or creditors or which otherwise affect the conduct of those meetings;
  - b. any issues as to the existence of the court's jurisdiction to sanction the scheme;
  - c. (in relation to a Part 26A scheme) any issues relevant to the conditions to be satisfied pursuant to section 901A of the 2006 Act and, if an application under section 901C(4) of the 2006 Act is to be made, any issues relevant to that application; and
  - d. Any other issue not going to the merits or fairness of the scheme, but which might lead the court to refuse to sanction the scheme.

## **APPENDIX 3**

1 December 2021

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CONSULTANCY AGREEMENT VIA A SERVICE COMPANY

between

AMIGO HOLDINGS PLC

And

JON YORKE CONSULTANCY LIMITED

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This agreement is dated                      December 2021

## **Parties**

- (1) AMIGO HOLDINGS PLC incorporated and registered in England and Wales with company number 00668987 whose registered office is at Nova, 118-128 Commercial Road, Bournemouth, England, BH2 5LT **(Client)**
- (2) JON YORKE CONSULTANCY LIMITED incorporated and registered in England and Wales with company number 11760633 whose registered office is at 24 Prior Street London SE10 8SF **(Consultant Company)**

## **Agreed terms**

### **1. Interpretation**

- 1.1 The following definitions and rules of interpretation apply in this agreement (unless the context requires otherwise).

**Board:** the board of directors of the Client (including any committee of the board duly appointed by it or a nominated representative duly authorised to represent the Client).

**Business of the Client:** Financial Services Holding Company

**Business Day:** a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

**Capacity:** as agent, consultant, director, employee, owner, partner, shareholder or in any other capacity.

**Claimants:** has the meaning described in schedule 1.

**Client Property:** all documents, books, manuals, materials, records, correspondence, papers and information (on whatever media and wherever located) relating to the Business or affairs of the Client or Group Company or its or their customers and business contacts, and any equipment, keys, hardware or software provided for the Consultant Company or the Individual's use by the Client during the Engagement, and any data or documents (including copies) produced, maintained or stored by the Consultant Company or the Individual on the computer systems or other electronic equipment of the Client, the Consultant Company or the Individual during the Engagement.

**Commencement Date:** 1 December 2021.

**Confidential Information:** information in whatever form (including, without limitation, in written, oral, visual or electronic form or on any magnetic or optical disk or memory and wherever located) relating to the business, customers, clients, suppliers, products, affairs and finances of the Client or any Group Company for the time being confidential to the Client or any Group Company and trade secrets including, without limitation, technical data and know-how relating to the Business of the Client or any Group Company or any of its or their suppliers, customers, clients, agents, distributors, shareholders, management or business contacts and including (but not limited to) information that the Consultant Company or the Individual creates, develops, receives or obtains in connection with this Engagement, whether or not such information (if in anything other than oral form) is marked confidential.

**Customer Advocate:** the role described in Schedule 1.

**Data Protection Legislation:** all applicable data protection and privacy legislation in force from time to time in the UK including the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (UK GDPR), the Data Protection Act 2018 (and regulations made thereunder) or any successor legislation, and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications).

**Deemed Employment:** an engagement to which section 61M(1)(d) of the Income Tax (Earnings and Pensions) Act 2003 applies.

**Engagement:** the engagement of the Consultant Company by the Client on the terms of this agreement.

**Group Company:** the Client, its subsidiaries or holding companies from time to time and any subsidiary of any holding company from time to time.

**Holding Company:** has the meaning given in Error! Reference source not found..

**Individual:** Jonathan Yorke

**Intellectual Property Rights:** patents, rights to Inventions, copyright and] related rights, moral rights, trade marks, business names and domain names, rights in get-up goodwill and the right to sue for passing off rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**Invention:** any invention, idea, discovery, development, improvement or innovation made by the Consultant Company or by the Individual in connection with the provision of the Services, whether or not patentable or capable of registration, and whether or not recorded in any medium.

**Off-payroll Working rules:** the rules in Chapter 10 of Part 2 of the Income Tax (Earnings and Pensions) Act 2003.

Scheme: has the meaning give in Schedule 1.

Services: the services described in the Schedule 1.

Subsidiary: has the meaning given in 1.6.

Termination Date: the date of termination of this agreement, howsoever arising.

Works: all records, reports, documents, papers, drawings, designs, transparencies, photos, graphics, logos, typographical arrangements, software programs, inventions, ideas, discoveries, developments, improvements or innovations and all materials embodying them in whatever form, including but not limited to hard copy and electronic form, prepared by the Consultant Company or the Individual in connection with the provision of the Services.

- 1.2 The headings in this agreement are inserted for convenience only and shall not affect its construction.
- 1.3 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.4 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.5 The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules.
- 1.6 A reference to a holding company or a subsidiary means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006 and a company shall be treated, for the purposes only of the membership requirement contained in sections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (a) another person (or its nominee), whether by way of security or in connection with the taking of security, or (b) as a nominee.
2. Term of engagement
  - 2.1 The Client shall engage the Consultant Company and the Consultant Company shall make available to the Client the Individual to provide the Services on the terms of this agreement.
  - 2.2 The Engagement shall be deemed to have commenced on the Commencement Date and shall continue unless and until terminated:
    - (a) as provided by the terms of this agreement; or



- (b) by either party giving to the other not less than three days' prior written notice.

### 3. Duties and obligations

#### 3.1 During the Engagement the Consultant Company shall, and (where appropriate) shall procure that the Individual shall:

- (a) provide the Services with all due care, skill and ability and use its or their best endeavours to promote the interests of the Client and any Group Company;
- (b) ensure that the Deliverables conform in all respects with, and are achieved by any deadlines specified in, **Schedule 1** and that the Deliverables shall be fit for any purpose expressly or implicitly made known to the Consultant Company by the Client; and
- (c) promptly give to the Board all such information and reports as it may reasonably require in connection with matters relating to the provision of the Services, including the Deliverables, or the Business of the Client or any Group Company.

If the Individual is unable to provide the Services due to illness or injury, the Consultant Company shall advise the Client of that fact as soon as reasonably practicable. For the avoidance of doubt, no fee shall be payable in accordance with clause **4** in respect of any period during which the Services are not provided.

#### 3.2 The Consultant Company shall use its reasonable endeavours to ensure that the Individual is available on reasonable notice to provide such assistance or information as the Client may require.

#### 3.3 Unless it or they have been specifically authorised to do so by the Client in writing:

- (a) neither the Consultant Company nor the Individual shall have any authority to incur any expenditure in the name of or for the account of the Client; and
- (b) the Consultant Company shall not, and shall procure that the Individual shall not, hold itself out as having authority to bind the Client.

#### 3.4 The Consultant Company shall, and shall procure that the Individual shall, comply with all reasonable standards of safety and comply with the Client's health and safety procedures from time to time in force at any of the Client's premises at which the Services are provided and report to the Client any unsafe working conditions or practices.

#### 3.5 The Consultant Company shall procure that the Individual shall comply with the Client's policies on social media, use of information and communication systems, anti-harassment and bullying.

- 3.6 The Consultant Company may, provided that it gives the Client prior written notice of its intention to do so, use a third party to perform any administrative, clerical or secretarial functions which are reasonably incidental to the provision of the Services provided that:
- (a) the Client will not be liable to bear the cost of such functions; and
  - (b) at the Client's request the third party shall be required to enter into direct undertakings with the Client, including with regard to confidentiality.
- 3.7 The Consultant Company shall, and shall procure that the Individual shall, promptly give to the Board all such information and documentation as it may reasonably require from time to time in order for the Client to determine whether the Engagement is or will be within the Off-payroll Working rules and is or will be Deemed Employment and, if the Client determines the Engagement is Deemed Employment, in order to comply with any obligation on the Client to deduct and account for tax or national insurance contributions from the fees due under clause 4. The Consultant Company shall, and shall procure that the Individual shall, promptly inform the Board of any material change to any information or documentation previously provided in compliance with this clause and shall also promptly provide any other information or documentation that it considers (or ought reasonably consider) to be materially relevant to determining whether the Engagement is Deemed Employment. Subject to clause 16, the Client reserves the right to amend the terms of the Engagement, and this agreement, if the Engagement is determined to be Deemed Employment.
- 3.8 The Consultant Company shall, and shall procure that the Individual shall:
- (a) comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (Relevant Requirements);
  - (b) comply with the Client's ethics and anti-bribery and anti-corruption policies (annexed to this agreement at Schedule 2 as the Client may update them from time to time (Relevant Policies);
  - (c) have and shall maintain in place throughout the term of this agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and will enforce them where appropriate;
  - (d) promptly report to the Client any request or demand for any undue financial or other advantage of any kind received by the Consultant Company or the Individual in connection with the performance of this agreement;
  - (e) immediately notify the Client if a foreign public official becomes an officer or employee of the Consultant Company or acquires a direct or indirect interest in the Consultant Company (and the Consultant Company warrants that it has no

foreign public officials as officers, employees or direct or indirect owners at the date of this agreement);

- (f) ensure that all persons associated with the Consultant Company or other persons who are performing services in connection with this agreement comply with this clause 3.8; and

3.9 Failure to comply with clause 3.8 may result in the immediate termination of this agreement.

3.10 For the purpose of clause 3.8, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), section 6(5) and 6(6) of that Act and section 8 of that Act respectively.

3.11 The Consultant Company shall, and shall procure that the Individual shall:

- (a) not engage in any activity, practice or conduct which would constitute either:
  - (i) a UK tax evasion facilitation offence under section 45(1) of the *Criminal Finances Act*; or
  - (ii) a foreign tax evasion facilitation offence under section 46(1) of the *Criminal Finances Act 2017*;
- (b) have and shall maintain in place throughout the term of this agreement such policies and procedures as are reasonable in all the circumstances to prevent the facilitation of tax evasion by another person (including without limitation employees of the Consultant Company and any Substitute), in accordance with any guidance issued under section 47 of the Criminal Finances Act 2017;
- (c) promptly report to the Client any request or demand received by the Consultant Company or the Individual from a third party to facilitate the evasion of tax within the meaning of Part 3 of the Criminal Finances Act 2017 in connection with the performance of this agreement; and
- (d) ensure that all persons associated with the Consultant Company or other persons who are performing services in connection with this agreement comply with this clause 3.11.

3.12 Failure to comply with clause 3.11 may result in the immediate termination of this agreement.

#### 4. Fees

- 4.1 The Client shall pay the Consultant Company a fee of £650 per hour exclusive of VAT, less any deductions for income tax and national insurance contributions as required by law, subject to a cap of £50,000 exclusive of VAT. Payment of amounts due under this agreement shall be made within 28 days of delivery to the Client of an invoice which gives details of the hours which the Individual has worked, the Services provided and the amount of the fee payable (plus VAT, if applicable) for the Services during any period worked.
- 4.2 Should the Client become required by law to deduct income tax and national insurance contributions from the fees:
- (a) the Client shall inform the Consultant Company of the deadline by which invoices must be submitted for payment to be included in the next monthly payroll and payment shall not be made until the Consultant Company has supplied to the Client all relevant information, in accordance with clause 3.7, required for the purpose of making the relevant deductions.
  - (b) the Consultant Company shall, if the period over which Services have been provided bridges 6 April 2021, ensure that the invoice apportions the applicable fee on a just and reasonable basis between the period before and the period after that date.
- 4.3 The Client shall be entitled to deduct from the fees (and any other sums) due to the Consultant Company any sums that the Consultant Company or the Individual may owe to the Client or any Group Company at any time.
- 4.4 Payment in full or in part of the fees claimed under clause 4 or any expenses claimed under clause 5 shall be without prejudice to any claims or rights of the Client or any Group Company against the Consultant Company or the Individual in respect of the provision of the Services.

#### 5. Expenses

- 5.1 The Client shall reimburse all reasonable expenses properly and necessarily incurred by the Consultant Company or the Individual in the course of the Engagement, subject to production of receipts or other appropriate evidence of payment including, for the avoidance of doubt, the pre-agreed fixed costs of £1,000 plus VAT of solicitors instructed by the Individual and the fees of the barrister representing the Individual at any Court hearing

6. Other activities

Nothing in this agreement shall prevent the Consultant Company or the Individual from being engaged, concerned or having any financial interest in any Capacity in any other business, trade, profession or occupation during the Engagement provided that:

- (a) such activity does not cause a breach of any of the Consultant Company's obligations under this agreement;
- (b) the Consultant Company shall not, and shall procure that the Individual shall not, engage in any such activity if it relates to a business which is similar to or in anyway competitive with the Business of the Client or any Group Company without the prior written consent of the Client (such consent not to be unreasonably withheld); and
- (c) the Consultant Company shall give priority to the provision of the Services to the Client over any other business activities undertaken by it during the course of the Engagement.

7. Confidential information and Client property

7.1 The Consultant Company acknowledges that in the course of the Engagement it and the Individual will have access to Confidential Information. The Consultant Company has therefore agreed to accept the restrictions in this clause 7.

7.2 The Consultant Company shall not, and shall procure that the Individual shall not (except in the proper course of its or their duties), either during the Engagement or at any time after the Termination Date, use or disclose to any third party (and shall use its best endeavours to prevent the publication and disclosure of) any Confidential Information. This restriction does not apply to:

- (a) any use or disclosure expressly authorised by the Client or required by law; or
- (b) any information which is already in, or comes into, the public domain otherwise than through the Consultant Company's or the Individual's unauthorised disclosure.

7.3 At any stage during the Engagement, the Consultant Company will promptly on request return to the Client all and any Client Property in its or the Individual's possession.

7.4 Nothing in this clause 7 shall prevent the Consultant Company (or the Individual) or the Client (or any of its officers, employees, workers or agents) from:

- (a) reporting a suspected criminal offence to the police or any law enforcement agency or co-operating with the police or any law enforcement agency regarding a criminal investigation or prosecution; or

- (b) doing or saying anything that is required by HMRC or a regulator, ombudsman or supervisory authority; or
- (c) whether required to or not, making a disclosure to, or co-operating with any investigation by, HMRC or a regulator, ombudsman or supervisory authority regarding any misconduct, wrongdoing or serious breach of regulatory requirements (including giving evidence at a hearing); or
- (d) complying with an order from a court or tribunal to disclose or give evidence; or
- (e) making any other disclosure as required by law.

## 8. Data protection

- 8.1 The Client will collect and process information relating to the Individual in accordance with the privacy notice which is annexed to this agreement.
- 8.2 The Consultant Company and the Client will comply with the Data Protection Legislation.
- 8.3 The Consultant Company shall, and shall procure that the Individual shall, in relation to any Personal Data processed in connection with the Engagement:
  - (a) process that Personal Data only on written instructions of the Client;
  - (b) keep the Personal Data confidential;
  - (c) comply with the Client's data protection policy and data retention guidelines
  - (d) comply with the Client's reasonable instructions with respect to processing Personal Data;
  - (e) not transfer any Personal Data outside of the UK;
- 8.4 The Consultant Company shall ensure that it has in place appropriate technical or organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures. Such measures may include, where appropriate:
  - (a) pseudonymising and encrypting Personal Data;
  - (b) ensuring confidentiality, integrity, availability and resilience of its systems and services;
  - (c) ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident; and

- (d) regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it.

8.5 The Client does not agree to the Consultant Company appointing any third party processor of Personal Data under this agreement.

8.6 The Consultant Company shall have personal liability for and shall indemnify the Client and any Group Company for any loss, liability, costs (including legal costs), damages, or expenses resulting from any breach by the Consultant Company of the Data Protection Legislation.

## 9. Intellectual property

9.1 The Consultant Company warrants to the Client that it has obtained from the Individual a written and valid assignment of all existing and future Intellectual Property Rights in the Works and the Inventions and of all materials embodying such rights and a written irrevocable waiver of all the Individual's statutory moral rights in the Works, to the fullest extent permissible by law, and that the Individual has agreed to hold on trust for the Consultant Company any such rights in which the legal title has not passed (or will not pass) to the Consultant Company. The Consultant Company agrees to provide to the Client a copy of this assignment on or before the date of this agreement.

9.2 The Consultant Company warrants that:

- (a) it has not given and will not give permission to any third party to use any of the Works or the Inventions, nor any of the Intellectual Property Rights in the Works;
- (b) it is unaware of any use by any third party of any of the Works or Intellectual Property Rights in the Works; and
- (c) the use of the Works or the Intellectual Property Rights in the Works by the Client will not infringe the rights of any third party,

and confirms that the Individual has given written undertakings in the same terms to the Consultant Company.

9.3 The Consultant Company agrees to indemnify the Client and keep it indemnified at all times against all or any costs, claims, damages or expenses incurred by the Client, or for which the Client may become liable, with respect to any intellectual property infringement claim or other claim relating to the Works or Inventions supplied by the Consultant Company to the Client during the course of providing the Services. The Client may at its option satisfy such indemnity (in whole or in part) by way of deduction from any payments due to the Consultant Company.

- 9.4 The Consultant Company acknowledges that no further remuneration or compensation other than that provided for in this agreement is or may become due to the Consultant Company in respect of the performance of its obligations under this clause 9.
- 9.5 The Consultant Company undertakes to execute all documents, make all applications, give all assistance and do all acts and things, at the expense of the Client and at any time either during or after the Engagement, as may, in the opinion of the Client, be necessary or desirable to vest the Intellectual Property Rights in, and register or obtain patents or registered designs in, the name of the Client and to defend the Client against claims that works embodying Intellectual Property Rights or Inventions infringe third party rights, and otherwise to protect and maintain the Intellectual Property Rights in the Works. The Consultant Company confirms that the Individual has given written undertakings in the same terms to the Consultant Company.
- 9.6 The Consultant Company irrevocably appoints the Client to be its attorney in its name and on its behalf to execute documents, use the Consultant Company's name and do all things which are necessary or desirable for the Client to obtain for itself or its nominee the full benefit of this clause.
10. Provisions relating to the role of Customer Advocate
- 10.1 Notwithstanding anything to the contrary in this Agreement the Individual in acting as Customer Advocate:
- (a) will act in an independent capacity and will not have any regard to the interests of the Client or its advisers in promoting a scheme of arrangement;
  - (b) will owe no duty or have no liability to the Client in the event that the Individual draws adverse conclusions relating to any Scheme or a Scheme is not approved by Claimants or the Court;
  - (c) will make the terms of this agreement freely available to the Claimants and the Court in order to demonstrate his independence from the Client.
- 10.2 The Client will provide such access to its books, records and other resources to the Individual acting as Customer Advocate as the Individual shall reasonably require to enable them to perform the Services.
- 10.3 The Client hereby waives any claim to privilege in or in connection with the work undertaken by the Individual as Customer Advocate provided that nothing shall require the Client to waive privilege in order to comply with its obligations in clause 10.2.
- 10.4 The Client accepts and agrees that the Individual when acting as Customer Advocate shall be entitled to exclude reliance and liability to third parties including to the customers any



intermediaries and claims management companies in connection with his work and any report he produces. A disclaimer to this effect will be included in any communication or report sent or made available to the customers.

## 11. Termination

11.1 Notwithstanding the provisions of clause 2.2, the Client may terminate the Engagement with immediate effect without notice and without any liability to make any further payment to the Consultant Company (other than in respect of amounts accrued before the Termination Date) if at any time:

- (a) the Consultant Company or the Individual commits any gross misconduct affecting the Business of the Client or any Group Company;
- (b) the Consultant Company or, where applicable, the Individual commits any serious or repeated breach or non-observance of any of the provisions of this agreement or refuses or neglects to comply with any reasonable and lawful directions of the Client;
- (c) the Individual is convicted of any criminal offence (other than an offence under any road traffic legislation in the United Kingdom or elsewhere for which a fine or non-custodial penalty is imposed);
- (d) the Consultant Company or the Individual is, in the reasonable opinion of the Board, negligent or incompetent in the performance of the Services;
- (e) the Individual is declared bankrupt or makes any arrangement with or for the benefit of their creditors or has a county court administration order made against them under the County Court Act 1984;
- (f) the Consultant Company makes a resolution for its winding up, makes an arrangement or composition with its creditors or makes an application to a court of competent jurisdiction for protection from its creditors or an administration or winding-up order is made or an administrator or receiver is appointed in relation to the Consultant Company;
- (g) the Individual does not own all of the issued share capital (from time to time) of the Consultant Company;
- (h) the Engagement is determined by the Client or, subsequently, HM Revenue & Customs to be Deemed Employment;
- (i) the Consultant Company or the Individual breaches the obligations contained in clause 3.8 - 3.11;
- (j) the Consultant Company or the Individual commits any breach of the Client's policies and procedures; or
- (k) the Consultant Company or the Individual commits any offence under the Bribery Act 2010 or the Criminal Finances Act 2017.

11.2 The rights of the Client under clause 11.1 are without prejudice to any other rights that it might have at law to terminate the Engagement or to accept any breach of this agreement on the part of the Consultant Company as having brought the agreement to an end. Any delay by the Client in exercising its rights to terminate shall not constitute a waiver of these rights.

## 12. Obligations on termination

On the Termination Date the Consultant Company shall, and shall procure that the Individual shall:

- (a) immediately deliver to the Client all Client Property and original Confidential Information which is in its or their possession or under its or their control;
- (b) promptly transfer to the Client the web domain used by the Consultant Company and the Individual to receive correspondence from Claimants in response to the Scheme Practice Statement Letter;
- (c) subject to the Client's data retention guidelines, irretrievably delete any information relating to the Business of the Client or any Group Company stored on any magnetic or optical disk or memory (including but not limited to any Confidential Information) and all matter derived from such sources which is in its or their possession or under its or their control outside the premises of the Client. This obligation includes requiring any Substitute to delete such information where applicable. For the avoidance of doubt, the contact details of business contacts made during the Engagement are regarded as Confidential Information and, as such, must be deleted from personal social or professional networking accounts; and
- (d) provide a signed statement that it or they have complied fully with its or their obligations under this clause 12, together with such evidence of compliance as the Client may reasonably request.

## 13. Status

13.1 The relationship of the Consultant Company (and the Individual) to the Client will be that of independent contractor and nothing in this agreement shall render it (nor the Individual) an employee, worker, agent or partner of the Client and the Consultant Company shall not hold itself out as such and shall procure that the Individual shall not hold themselves out as such.

13.2 The Consultant Company shall be fully responsible for and shall indemnify the Client or any Group Company for and in respect of the following:

- (a) subject to clause 13.3, any income tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or

claim arising from a determination that the Engagement is Deemed Employment made in connection with either the performance of the Services or any payment or benefit received by the Individual in respect of the Services, where such recovery is not prohibited by law. The Consultant Company shall further indemnify the Client against all reasonable costs, expenses and any penalty, fine or interest incurred or payable by the Client in connection with or in consequence of any such liability, deduction, contribution, assessment or claim other than where the latter arise out of the Client's negligence or wilful default;

- (b) any liability arising from any employment-related claim or any claim based on worker status (including reasonable costs and expenses) brought by the Individual or any Substitute against the Client arising out of or in connection with the provision of the Services, except where such claim is as a result of any act or omission of the Client.

13.3 The indemnity in Clause 13.2(a) does not apply to any income tax or National Insurance contributions deducted by the Client if the Engagement is Deemed Employment and the Client makes the deductions from the fees due under clause 4 prior to payment to the Consultant Company.

13.4 The Client may at its option satisfy the indemnity in clause 13.2 (in whole or in part) by way of deduction from payments due to the Consultant Company.

13.5 The Consultant Company warrants that it is not, nor will it prior to the cessation of this agreement, become a managed service company within the meaning of section 61B of the Income Tax (Earnings and Pensions) Act 2003.

#### 14. Notices

14.1 Any notice or other communication given to a party under or in connection with this agreement shall be in writing and shall be:

- (a) delivered by hand or by pre-paid first-class post or other next working day delivery service at the address given in this agreement or as otherwise notified in writing to the other party.

14.2 Unless proved otherwise, any notice or communication shall be deemed to have been received:

- (a) if delivered by hand, at the time the notice is left at the address given in this agreement or given to the addressee;
- (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting.

14.3 If deemed receipt under clause 14.2 would occur outside business hours in the place of receipt, it shall be deferred until business hours resume. In this clause 14.3, business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

14.4 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

14.5 A notice given under this agreement is not valid if sent by e-mail.

## 15. Entire agreement

15.1 This agreement constitutes the entire agreement between the parties and any Group Company and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

15.2 Each party acknowledges that in entering into this agreement it does not rely on[, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement.

15.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this agreement.

15.4 Nothing in this clause shall limit or exclude any liability for fraud.

## 16. Variation

No variation of this agreement or of any of the documents referred to in it shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

## 17. Counterparts

17.1 This agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

17.2 No counterpart shall be effective until each party has delivered to the other at least one executed counterpart.

18. Third party rights

18.1 Except as expressly provided elsewhere in this agreement, a person who is not a party to this agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

18.2 The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this agreement are not subject to the consent of any other person.

19. Governing law

This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

20. Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have non-exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

This agreement has been executed on the date stated at the beginning of it.

## Schedule 1      Services

1. The Individual will act as Customer Advocate ("CA") for claimants ("the Claimants") affected by the scheme of arrangement ("the Scheme") that is being proposed by certain Group Companies so far as it relates solely to issues that will be considered at the Scheme convening hearing (i.e. class composition considerations). The CA should not give an opinion on whether in his opinion the proposed Scheme is fair or in the best interest of Claimants (that will be for the Court and the Claimants themselves to decide) but to understand and represent the views and objections of Claimants in a reasoned and orderly way. However, the CA will be expected to report on other matters such as fairness raised by Claimants or the media.
2. In order to fulfil this role and be able to represent the views of Claimants, the CA will:
  - 2.1. Review correspondence received by the CA (or received by Group Companies and forwarded to the CA) in response to the Scheme Practice Statement Letter from Claimants setting out their comments and feedback on the Scheme. Depending on the volume of correspondence so received, and by prior agreement with the Client, the CA may conduct a random sample review of such correspondence and/or may review summaries of such correspondence which have been prepared by the Group Companies;
  - 2.2. Seek to engage with media bodies/consumer protection groups as highlighted by the Client to understand any concerns they may have with the Scheme.
3. Following step 2 above the CA will produce a report which:
  - 3.1. summarises the Claimants' objections or challenges to the Scheme, and any objections or challenges made by the media/consumer protection groups, so far as they relate to issues considered at the Scheme convening hearing; and

- 3.2. makes observations on those objections and challenges, including by suggesting ways in which they might be addressed or accommodated.

This report will be produced in draft to the Client ahead of the Scheme convening hearing to allow the Client the opportunity to respond in an ordered and reasoned way.

4. The CA will attend the Scheme convening hearing, represented by a barrister, to answer any questions the Court might have about the role they had undertaken.
5. Following the Scheme convening hearing, the CA will write a second report addressed to Claimants (subject to the terms of engagement described below) briefly summarising: (i) responses received/reviewed from Claimants and the media, (ii) the observations that the CA made to the Client and the responses received from the Client, and (iii) the decision of the Court at the convening hearing and its reasons for that. This report will be made available to Claimants on the Scheme website.
6. The CA's engagement will end once the report referred to in paragraph 5 above had been provided, subject to any agreement to extend the engagement through the Scheme meeting and/or sanction.

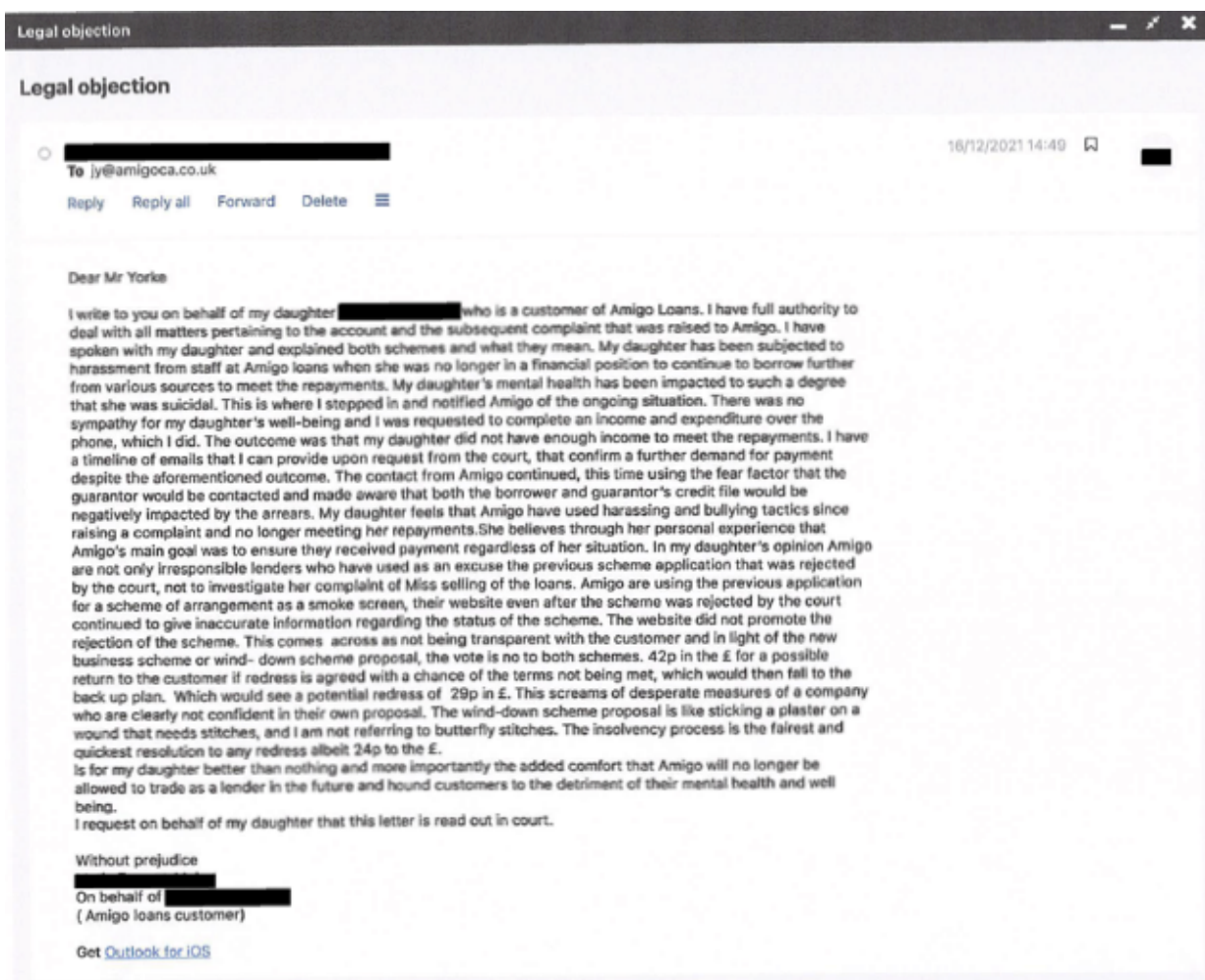
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HOLDINGS PLC by GARY  
JENNISON a director

Director

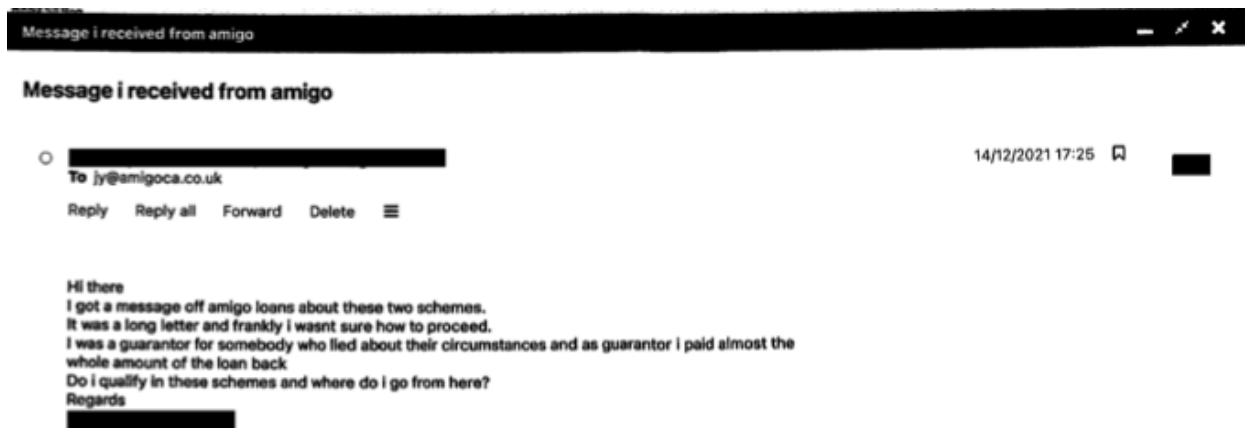
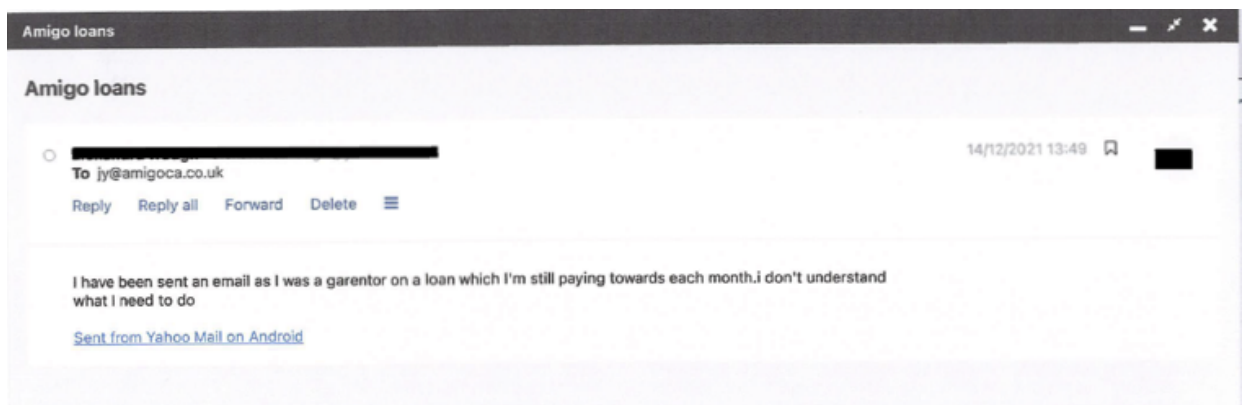
Executed by [REDACTED]  
by JONATHAN YORKE a director



## APPENDIX 4



## APPENDIX 5



**Re: Important message from Amigo Loans Ltd - PLEASE READ**

To: [redacted]  
To: jy@amigoca.co.uk  
Reply Reply all Forward Delete

16/12/2021 10:25

Show images External images have been blocked to protect you against potential spam.

I received this message as I believe that I was a guarantor for a loan taken out by my daughter, who by the way is Bi-polar and a sufferer with fibromyalgia, who really has a lot of manic moods and should not have been given this loan in the first place.  
I believe i signed as guarantor but cannot remember doing so. I am elderly, 73 years old and suffering a lot of stress now as my husband had the COVID19 jab and suffered a cardiac arrest caused through a blood clot caused by the AstraZeneca vaccine.  
I don't understand what i am reading here so i cannot make a decision, or vote, or even look at FAQ as i don't have a clue of all this legal stuff.  
I am trying to find the email address of the lawyers that sent me correspondence a while ago but cannot find or remember their names. so that i can confirm that i have received this note but do not know what to do or understand.  
kind regards  
Mrs [redacted]

On 16/12/2021 08:43, amigoscheme\_dontreply@amigoloans.co.uk wrote:

... The inbox that this message was sent from is not monitored - Please do not reply. Dear Sandra, We are proposing two new Schemes of Arrangement (the New Schemes) and want to let you know what this could mean ...  
... Road, Bournemouth, BH2 5LT Registered with the Information Commissioners Office Z8738456. Authorised and regulated by the Financial Conduct Authority. Financial Conduct Authority Permission Number 708284

**Amigo Court Hearing Request - [redacted]**

**Re: Amigo Court Hearing Request - [redacted]**

To: [redacted]  
To: jy@amigoca.co.uk  
Reply Reply all Forward Delete

22/1/2022 11:58

Hi Jon,

Sorry to hear you had Covid, I hope you are doing much better now.

Thank you for coming back to me and I look forward to updates closer to the hearing.

I will be honest, although I have read through the documents regarding the Schemes proposed by Amigo, I am not familiar with certain terminology nor have the full understanding of what exactly certain outcomes mean.  
I am and will be totally dependent on what's explained and I will continue to reach out to Amigo if I have questions.

Thank you

Kind Regards  
[redacted]

On Wed, 5 Jan 2022, 11:50, <jy@amigoca.co.uk> wrote:

... Dear [redacted] Thank you for your e-mail. I apologise for my delay in replying. I contracted covid over Christmas and the new year. I will add you to the list of people who want to attend the Court hearing. ...  
... loans over a certain period had been taken out. Other factors can be added to this by you. These may include health issues and other matters that Amigo were not aware of. I hope this helps Regards Jon Yorke