Neutral Citation Number: [2022] EWHC 2093 (Comm)

Case No: CL-2017-000173

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
COMMERCIAL COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 05/08/2022

Before :

DAVID EDWARDS QC
SITTING AS A JUDGE OF THE HIGH COURT

- -

Between :

XL INSURANCE COMPANY SE

Claimant

- and -

(1) IPORS UNDERWRITING LIMITED
(2) PAUL ALAN CORCORAN
(3) CHESHIRE PRESTIGIOUS CARS LIMITED
(4) HER MAJESTY'S REVENUE AND CUSTOMS
(5) TRACEY LOUISE DEAKIN **Defendants**
(6) MARGARET DAVIES

- -
- -

JOSEPH ENGLAND (instructed by **XL Catlin Services SE**) for the **Claimant**
The **First to Third Defendants** were not present and were not represented

Hearing dates: 23 & 24 May 2022

- -

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

.....

David Edwards QC :

A. The Parties

1. The Claimant in this action is the insurance company XL Insurance Company SE ("XL"). XL underwrites various types of insurance business, including property insurance in both the United Kingdom and the Republic of Ireland.

2. The First Defendant was incorporated on 13 October 2011 and was originally known as IPORS Real Estate Limited. It is now known as IPORS Underwriting Limited ("IPORS"). It carries (or at least it carried) on business as a coverholder, underwriting business for a number of years as agent for XL.

3. The Second Defendant, Paul Corcoran ("Mr Corcoran"), was and remains IPORS' sole director and shareholder. He was and is also the sole director and shareholder of the Third Defendant, Cheshire Prestigious Cars Limited ("CPC"), a company incorporated on 25 June 2016.

4. The Fourth Defendant is Her Majesty's Revenue and Customs ("HMRC"). The Fifth and Sixth Defendants are Tracey Louise Deakin and Margaret Davies, respectively Mr Corcoran's ex-wife and former mother-in-law. The Fourth to Sixth Defendants took no part in the trial before me, which proceeded only in relation to the claims made against the First to Third Defendants.

B. The Binding Authority Agreements

5. On 26 March 2012 XL entered into the first of a number of binding authority agreements with IPORS (the "Binders") under the terms of which XL authorised IPORS to bind insurance, to issue documents and to receive premiums on its behalf in relation to property insurance risks in the United Kingdom and the Republic of Ireland.

6. The first Binder was in force for the period from 26 March 2012 to 31 March 2013 ("the 2012 Binder"). Subsequent Binders were in force for the following periods:

   i) 1 April 2013 to 31 March 2014 ("the 2013 Binder");

   ii) 1 April 2014 to 31 March 2015 (extended by endorsement to 30 August 2015) ("the 2014 Binder");

   iii) 17 August 2015 to 31 December 2015 ("the 2015 Binder"); and

   iv) 1 January 2016 to 31 December 2016 (but terminated by IPORS by written notice effective 30 November 2016) ("the 2016 Binder").

7. Each Binder comprised a standard form wording and a schedule, cross-referenced to the wording, which contained details specific to the agreement between XL and IPORS. In the case of some of the Binders there were also appendices or endorsements. Each Binder also included pages dealing with broker remuneration and other administrative details which are irrelevant to the matters that I have to decide.

8. The terms of the wordings changed slightly over time, although the substance of the provisions remained essentially the same. The wordings imposed obligations upon IPORS in relation to bordereaux, accounts and settlements; there were also provisions that obliged IPORS to hold premiums and other funds received on behalf of XL in a fiduciary capacity in separate bank accounts.

9. The 2012 Binder, for example, provided in sections 4, 24, 25 and 32 as follows:

> "**SECTION 4**
>
> **GRANT OF AUTHORITY**
>
> 4.1 The Insurers hereby authorise the Coverholder to:-
>
> 4.1.1 bind insurances and amendments thereto for the Insurers' account;
>
> 4.1.2 act as the Insurers' agent in accordance with Section 27 for the purpose of receiving premiums from insureds, settling refunds and receiving claims monies prior to onward transmission to insureds;
>
> …
>
> 4.4 In respect of every insurance bound under the Agreement, the Coverholder shall:-
>
> 4.4.1 issue contract documentation, endorsements or such other documents evidencing cover as may be agreed in writing by the Insurers;
>
> 4.4.2 collect and process premiums and return premiums on the Insurers' behalf promptly or where applicable in accordance with such terms as agreed with the Insurers;
>
> …
>
> **SECTION 24**
>
> **BORDEREAUX, ACCOUNTS AND SETTLEMENTS**
>
> 24.1 All premiums, paid claims, outstanding claims and expenses relating to insurances bound shall be allocated and declared to the Agreement;

24.2 The Coverholder shall prepare premium bordereaux at the interval stated in the Schedule until every insurance bound has expired or has otherwise been cancelled or terminated;

…

24.4 The Coverholder shall produce premium bordereaux and, if due from the Coverholder, claims bordereaux in a format(s) agreed in advance by the Underwriters;

24.5 All bordereaux due from the Coverholder shall be sent to the London Broker within the number of days of the end of such bordereaux interval(s), as stated in the Schedule. In the event of there being no activity during a particular bordereau interval, the Coverholder shall advise the London Broker accordingly within the number of days of the end of such bordereaux interval(s) as stated in the Schedule;

…

24.7 Settlements shall be remitted via the London Broker within the maximum number of days of the end of each such bordereaux interval(s) as stated in the Schedule;

24.8 Any fees or charges that are agreed to be reimbursed by the Underwriters to the Coverholder as a deduction from the premium shall be deducted from the premium bordereaux. Such deductions are as stated in the Schedule.

SECTION 25

COMMISSION(S)

25.1 The Coverholder's Commission shall be as stated in the Schedule;

25.2 Contingent or Profit Commission shall be as stated in the Schedule.

…

SECTION 32

SEPARATE BANK ACCOUNTS

All monies received by the Coverholder, from or on behalf of the Underwriters, shall be received by the Coverholder in a fiduciary capacity on behalf of the Underwriters and shall be:-

32.1 deposited immediately into an account separate from the Coverholder's general or operating account for onward transmission for the purposes set out in 32.3 and shall not be otherwise held or retained;

32.2 identified in the Coverholder's book of account, separately from other funds similarly held by the Coverholder for other insurers;

32.3 used solely for the purpose of settling accounts with the Underwriters or the payment of the commissions, premium refunds, claims or any other transaction authorised by the Underwriters."

10. The equivalent provisions in the 2016 Binder were contained in sections 4, 16, 24 and 27 (as amended by Appendix D):

"**SECTION 4**

GRANT OF AUTHORITY

4.1 The Insurers hereby authorise the Coverholder to:-

4.1.1 bind insurances and amendments thereto for the Insurers' account;

4.1.2 act as the Insurers' agent in accordance with Section 27 for the purpose of receiving premiums from insureds, settling refunds and receiving claims monies prior to onward transmission to insureds;

…

4.4 In respect of every insurance bound under the Agreement, the Coverholder shall:-

4.2.1 issue contract documentation, endorsements or such other documents evidencing cover as may be agreed in writing by the Insurers;

4.2.2 collect and process premiums and return premiums on the Insurers' behalf promptly or where applicable in accordance with such terms as agreed with the Insurers;

…

SECTION 16

COMMISSION(S)

16.1 The Coverholder's Commission shall be as stated in 16.1 of the Schedule;

16.2 Any Profit Commission shall be calculated in accordance with the formula as stated in 16.2 of the Schedule.

…

SECTION 24

ACCOUNTING BORDEREAU(X)/REPORTING AND SETTLEMENTS

24.1 All premiums, paid claims, outstanding claims and expenses relating to insurances bound shall be allocated and declared to the Agreement;

24.2 The Coverholder shall report the paid premiums to the Insurers by:

24.2.1 preparing premium bordereaux in a manner or format(s) agreed by the Insurers; or

24.2.2 making the accounting information available to Insurers in an alternative manner agreed in advance by the Insurers;

The accounting information shall be reported at the interval stated in 24.2 of the Schedule until every insurance bound has expired or has otherwise been cancelled or terminated;

…

24.4 All paid premium and, if applicable, claims information due from the Coverholder shall be sent, or made available, to the

Insurers within the number of days of the end of each reporting interval as stated in 24.4 of the Schedule;

24.5 The Coverholder shall produce and send, or make available, to the Insurers a summary account showing:

24.5.1 the paid premium declared for the period in question, gross and net of commission, taxes and any other deductions; and

…

24.6 Settlements shall be remitted to the Insurers within the maximum number of days of the end of each reporting interval as stated in 24.6 of the Schedule;

24.7 Any fees or charges that are agreed to be reimbursed by the Insurers to the Coverholder as a deduction from the premium are as stated in 24.7 of the Schedule and shall be shown as part of the paid premium reporting.

…

SECTION 27

SEPARATE BANK ACCOUNTS

All monies received by the Coverholder under this Agreement, in respect of premium from insureds, reinsureds or their brokers or from the Underwriters in respect of claims and premium refunds shall be deemed to be received by the Coverholder on behalf of and at the risk of the Underwriters and:

27.1 shall be received by the Coverholder as assets of the Insurers and

27.2 shall on receipt be deposited immediately into a bank account held by the Coverholder on the statutory trust or the non-statutory trust in accordance with CASS 5.3 or CASS 5.4 respectively of the FCA's Client Assets Sourcebook for the purposes there set out and on the basis that the Insurers are to be treated by the Coverholder as its clients for purposes of CASS 5.3 to CASS 5.6 and that their interests under the trusts in CASS 5.3.2 R or CASS 5.4.7 R are to be subordinated to the Coverholder's clients who are not insurance undertakings;

> 27.3 This Section provides authority from the Insurers for the Coverholder to retain for its own use and benefit any interest which shall accrue, in accordance with the terms of the Agreement, to the account described in 27.2 above."

The terms of the 2013, 2014 and 2015 Binders were, insofar as material, similar to those of the 2012 and/or 2016 Binders.

11. The schedules to the Binders required IPORS to send monthly premium bordereaux either to the brokers or to XL within 15 days after the end of each month. As apparent from section 24.1 of the 2016 Binder, IPORS was expressly required to allocate and declare all premiums relating to insurance bound to the Binders. The period allowed for settlement varied across the Binders with sums due to XL to be paid within 30 days, 60 days or sometimes 90 days of the end of the month.

12. IPORS was required to account to XL for premiums net of commission. This was to be agreed on each declaration but, depending on the particular Binder, was not to exceed 35% or 37.5% of gross premium, including brokerage payable to the placing broker which would be deducted at source. Brokerage was, on average, 17.5%; thus, from the premium received by IPORS it was entitled to deduct its own commission of between 17.5% and 20% before remitting the balance to XL.

C. The Dispute

13. The dispute between the parties first arose in the middle of 2016 and concerned the operation of the 2016 Binder.

14. As explained by Neel Robb, an Associate General Counsel employed by XL Catlin Services SE ("XLCSE"), in his First Affidavit, during the first half of 2016 IPORS submitted premium bordereaux to XL on a monthly basis as required. XL issued invoices for the amounts shown to be due, but these invoices (and also an invoice issued in respect of the month of December 2015 under the prior 2015 Binder) remained unpaid.

15. On 28 July 2016 XL emailed Mr Corcoran to request an update on payment of invoices for January, February and March 2016. A chaser was sent on 9 September 2016. Mr Corcoran replied on 13 September 2016, referring to difficulties he said IPORS had experienced reconciling transactions but acknowledging that premiums totalling around €2.2 million plus smaller amounts in £Sterling were outstanding. Mr Corcoran said that they would be paid on a staged basis between September 2016 and March 2017.

16. IPORS failed to make the first promised payment in September 2016. XL insisted on the entire outstanding amount being paid by the end of October 2016, threatening to give notice of cancellation, although in the event IPORS gave notice of cancellation itself effective 30 November 2016. On 2 November 2016 Mr Corcoran wrote saying that, in light of unspecified credits in favour of IPORS, only €263,143.15 was due, and IPORS remitted this sum to XL.

17. In 2015 XL had conducted an audit of IPORS. The audit report dated 28 August 2015 revealed that various aspects of IPORS' procedures and controls were unsatisfactory. A further audit was carried out on behalf of XL in 2016 by Deloitte LLP, which also indicated problems. On 24 January 2017 XL informed Mr Corcoran that external auditors would attend its offices to conduct a further audit, but Mr Corcoran refused to co-operate and the audit did not go ahead.

18. On 1 February 2017 XL sent IPORS a Letter before Claim notifying IPORS that, unless the outstanding sums were paid, proceedings would be commenced. Payment was not forthcoming and so on 13 March 2017 XL commenced these proceedings. At that stage, XL's claim was confined to sums due in accordance with the bordereaux rendered by IPORS under the 2016 Binder: €4,365,504.28 and £40,309.74. IPORS was the only defendant.

D. Procedural History

19. On 9 June 2017, in an application supported by Mr Robb's First Affidavit, XL applied for permission to amend its Particulars of Claim to include a proprietary claim against IPORS. It also sought a freezing and/or a proprietary injunction. No Acknowledgment of Service had at that stage been served on XL, which prompted XL to request a default judgment, although it subsequently emerged that an Acknowledgment of Service and a Defence had, in fact, been filed.

20. The basis for the application by XL to introduce a proprietary claim was IPORS' obligation under the terms of section 27 of the 2016 Binder to hold premiums received on trust as assets of XL in a separate premium bank account. In support of XL's case that there was a risk of dissipation for the purpose of its application for a freezing injunction, Mr Robb pointed to the fact that there was evidence that IPORS' business and assets were being moved to a different company in Ireland.

21. The applications were heard by HHJ Waksman, QC (sitting as a Judge of the High Court) and were granted. So far as the application for injunctive relief was concerned, in his Order dated 16 June 2017:

    i) HHJ Waksman, QC granted a proprietary injunction over Euro and Sterling premium accounts held by IPORS at National Westminster Bank Plc ("NatWest");

    ii) He also granted a domestic freezing injunction, limited to £4,500,000, prohibiting IPORS from dealing with specified properties and assets as well as any monies held in the NatWest premium accounts;

    iii) HHJ Waksman, QC made an order requiring IPORS to give disclosure of its assets, including disclosure of the whereabouts of funds in the premium accounts, within 72 hours of service of the order.

22. On the 30 June 2017 return date, which IPORS did not attend, HHJ Waksman, QC extended his earlier order, stipulating that the freezing injunction should operate world-wide. He also made an order against NatWest requiring it to provide statements for any IPORS bank accounts. On 24 July 2017, it having

emerged that IPORS also held a Euro premium account at Ulster Bank Ireland DAC ("Ulster Bank"), the Irish High Court made an order requiring similar disclosure.

23. IPORS failed to provide disclosure of its assets as required by HHJ Waksman, QC's 16 June and 30 June 2017 orders. The bank statements provided by NatWest and by Ulster Bank, however, revealed that:

    i) The Euro and Sterling premium accounts at the two banks ("the Premium Accounts") held either nil or very modest balances, completely at odds with the figures provided by IPORS in the bordereaux which indicated receipt of premiums by IPORS in the first half of 2016 totalling over €4 million;

    ii) Between 1 January 2016 and 22 May 2017 Euro and £Sterling sums equivalent to more than £3.8 million had been transferred out of the Premium Accounts into an IPORS Business Account held at NatWest ("the IPORS Business Account");

    iii) In many cases, transfers from the Premium Accounts into the IPORS Business Account had been shortly followed – in some cases on the same day - by transfers from the IPORS Business Account to Mr Corcoran's personal account at NatWest ("the PC Personal Account").

24. In light of these developments, XL applied in September 2017 to re-amend the Particulars of Claim to add Mr Corcoran as a Second Defendant, to advance claims of knowing receipt and dishonest assistance against him, and to extend the terms of the world-wide freezing order and proprietary relief originally granted to include Mr Corcoran and his assets.

25. An order to this effect was made by HHJ Waksman, QC on 20 September 2017 (continued on 6 October 2017), together with an order requiring NatWest to disclose copies of bank statements for the PC Personal Account. The statements were analysed by XL's forensic accountants, BTVK Advisory LLP (trading as Baker Tilly US) ("Baker Tilly"). Their work revealed that:

    i) Large amounts of money had been spent by Mr Corcoran on luxury, perishable goods, in particular, on cars; and

    ii) £378,500 had been transferred from the PC Personal Account to CPC, a company incorporated on 25 June 2016 at around the time the dispute between XL and IPORS had arisen which had the same registered address as IPORS and of which, like IPORS, Mr Corcoran was sole director and shareholder.

26. This revelation prompted XL on 6 November 2017 to apply to add CPC as Third Defendant, advancing a claim in knowing receipt against it, and to extend the scope of the injunctive relief and the disclosure sought from NatWest to embrace CPC. HHJ Waksman, QC made orders to this effect on 10 November 2017 (in the case of the injunction continued on 24 November 2017).

27. Further orders were subsequently made against other parties, either seeking disclosure or adding them as defendants. It is not necessary for me to deal with all of these orders, but they included the following:

    i) On 17 March 2021 Cockerill J made an order, following a contested application, adding HMRC as the Fourth Defendant, it having emerged that Mr Corcoran had declared taxable income and had made large payments of tax to HMRC for the tax years 2014/15 and 2015/16 traceable to XL's premium funds;

    ii) On 22 July 2021 HHJ Pelling, QC (sitting as a Judge of the High Court) made an order adding Ms Deakin and Ms Davies as the Fifth and Sixth Defendants on the basis of XL's claim that Mr Corcoran had used XL's premium funds to purchase properties for them (and had given Ms Deakin €100,000) as gifts; and

    iii) On 4 April 2022 Cockerill J made an order by consent against NatWest requiring it to pay the surplus proceeds of any sale of a property at 14 Moseley Road, Cheadle Hulme, SK8 5HJ ("14 Moseley Road") owned by Mr Corcoran into the Court Funds Office.

28. The claim brought by XL against HMRC was settled in April 2022 by XL's acceptance of a CPR Part 36 offer. Very shortly before the trial, I was told that a settlement in principle had been agreed between XL and the Fifth and Sixth Defendants, and I was asked, and I agreed, to make an order staying the claims against these two defendants to allow the settlement to be finalized.

29. In the meantime, Mr Corcoran having failed to comply with his disclosure and other obligations under the freezing and proprietary injunctions, an application was made to commit him to prison for contempt of court. On 26 May 2021 Cockerill J handed down a judgment in which she found Mr Corcoran guilty of some 20 acts (or counts) of contempt for which she imposed a custodial sentence of 24 months.

30. In paragraphs [99] and [102], in the course of deciding the appropriate sentence, Cockerill J made the following findings:

> "99. In terms of culpability I find it hard to see how I can avoid arriving at the conclusion that these breaches were very serious and persistent (to use the wording used in the recent "Breach Offences" sentencing guideline). They were also, like the breaches in *Otkritie*, breaches which were deliberate, contumacious and involved funds that were subject to a proprietary injunction. Mr Corcoran has taken deliberate steps to put the funds out of XL's reach, and entirely failed to provide even basic disclosure. The breaches appear to continue; since the application, XL has discovered Mr Corcoran using other accounts in breach of the Injunctions, for example under an alias at Monzo Bank, and receiving rent from a

> property specified in the list of assets in the Injunctions (which he had also been trying to sell).
>
> …
>
> 100. On the harm front again I cannot help reaching the conclusion that the harm is very serious. In essence Mr Corcoran's breaches have almost entirely undercut the relief which the Court granted. The harm caused to XL by the disclosure breaches and his expenditure is clear from the fact of the breaches, which dissipated assets which should have been frozen. Because of the breaches, including the breach as to disclosure, XL has been able to locate or freeze very little of the c.£10 million of proprietary funds or other assets which are the subject of the Injunctions. That is in circumstances where Mr Corcoran is the person who can give the most important information. He has caused XL considerable expense and delay in having to trace its funds via other sources and numerous Court applications, often finding (in the case of non-party disclosure from banks) that the monies had already been depleted, e.g. in the cases of the Nationwide and Coutts accounts to which this contempt application relates."

31. A warrant was issued for Mr Corcoran's arrest, but at the time of the hearing it had not been executed. Mr Corcoran had apparently fled to Portugal, where he continued to set up and spend money from various online banks using an alias. I was informed after the hearing, however, that on 3 July 2022 Mr Corcoran was arrested at Bournemouth Airport. He has since been sent to HMP Winchester to serve his sentence.

E. The Trial

32. As I indicated earlier, the claims made by XL against the Fourth to Sixth Defendants have been settled, or at least settled in principle. The only claims pursued at the trial before me were the claims against the First to Third Defendants, IPORS, Mr Corcoran and CPC.

33. The Claim Form and Particulars of Claim originally issued in March 2017 claimed unpaid premium under the 2016 Binder of €4,628,647.43 and £40,309.74, less the amount of €263,143.15 paid by IPORS in November 2016. This claim was based on the figures that IPORS had produced itself in the monthly bordereaux. It emerged from work carried out by Baker Tilly, however, that XL had a rather larger claim.

34. I set out some of the terms of the Binders in paragraphs 9 and 10 above. These included provisions which obliged IPORS to allocate and declare, and to provide monthly bordereaux listing, all premiums for insurance bound to the Binders. When Baker Tilly analysed the bank statements provided by NatWest and Ulster Bank in conjunction with information obtained from third parties,

however, it emerged that IPORS had substantially under-declared the premium it had received.

35. The result was that:

i) XL had a claim in debt for the premium declared by IPORS in the bordereaux in respect of which XL had issued invoices; and

ii) XL also had a claim in debt and/or in damages in relation to IPORS' under-declaration of premium for the additional amount which, had the relevant premium been declared, would have been due to XL.

All premium received by IPORS on account of insurance written under the Binders was, of course, premium which IPORS was bound to hold on trust for XL in separate premium accounts.

36. In the Re-Re-Re-Re-Re-Amended Particulars of Claim (I refer to this hereafter simply as the "Particulars of Claim"), these two claims were shown separately:

i) Sums due under the 2016 Binder by reference to the bordereaux submitted by IPORS: €4,628,647.43 (less €263,143.15) and £40,309.74 (paragraphs 10 – 12);

ii) Further sums not declared and/or paid under the 2012 to 2016 Binders: an additional €4,377,461 and £372,393 (paragraph 15) (although the calculation of the Euro figure appeared to overlook the €263,143.15 that had been paid).

37. In addition to its claims against IPORS in contract and for breach of trust, XL pursued personal claims against IPORS and CPC in knowing receipt, based on the transfer and receipt of XL's premium funds into their accounts and the imputation to them of the knowledge of Mr Corcoran, their sole director and shareholder, of IPORS' breach of trust, and claims against Mr Corcoran both for knowing receipt and for dishonest assistance in a breach of trust.

38. XL also sought proprietary relief in the form of declarations that any sums remaining in certain bank accounts held by IPORS, Mr Corcoran and CPC represented the traceable proceeds of XL's premium funds and were held on trust for XL and/or subject to an equitable lien in XL's favour together with orders that these sums should be paid over to XL. XL also sought to trace its premium funds into Mr Corcoran's property at 14 Moseley Road.

39. In April 2017 IPORS filed with the court (but did not serve on XL) a manuscript Defence signed on its behalf by Mr Corcoran. The Defence comprised six numbered paragraphs. Paragraphs 2 – 5 read as follows:

> "2. WE AGREE WE HAD A BINDING AUTHORITY AGREEMENT AND PAY ANY PREMIUM DUE.
>
> 3. WE HAVE TOLD THE CLAIMANT THAT THERE ARE CREDITS DUE TO US SINCE 2012 THAT EXCEED THE AMOUNTS OWED.

> 4. WE DO NOT ACCEPT INTEREST CHARGES AS NO MONEY IS OWED.
>
> 5. WE ARE IN DISPUTE WITH THE CLAIMANT ON OTHER MATTERS (EMAIL ATTACHED)."

40. In the five years between the commencement of the action and the trial, no details, documentation or witness evidence have been provided by IPORS to support the credits alleged in paragraph 3 of the Defence to be due to IPORS. Mr Hogan's evidence in his reports was that he had seen no such evidence. As I will explain, I have also seen no evidence or explanation of any credits due to IPORS.

41. The "dispute … on other matters" referred to in paragraph 5 of the Defence appears to relate to a miscellany of issues that have arisen in the course of parties' business relationship, but again these were not particularized or evidenced and the matters relied upon do not appear to provide an answer to the claim for non-payment of premiums. The Form N9D indicated that IPORS wished to make a counterclaim, but no counterclaim fee was ever paid.

42. IPORS' Defence was filed in response to XL's originally pleaded claim for payment of the sums shown to be due in the bordereaux under the 2016 Binder. No Defence has been filed by IPORS in respect of the additional claims added by XL for proprietary relief and in relation to the under-declaration of premium. These claims have not been responded to by IPORS in any way.

43. Whilst IPORS did at least file this manuscript Defence, no Defence has ever been filed by Mr Corcoran or by CPC. As reflected in Cockerill J's 26 May 2021 judgment, none of the First to Third Defendants has ever appeared to defend the claims, and there has been wide-scale non-compliance with the court's injunctions and disclosure orders. None of the First to Third Defendants appeared or was represented at the trial before me.

44. CPR Part 39.3 (1) provides that the court may proceed with a trial in the absence of a party. In light of their non-attendance, I considered at the start of the trial whether it was appropriate for me to proceed against the First to Third Defendants, or whether (although no such application had been made by them), I should adjourn the trial to give them a further opportunity to appear. As I said at the time, I was satisfied that I should proceed. My reasons were these.

45. First, there was no doubt that the First, Second and Third Defendants had been served with the proceedings and had been notified and were aware of the trial date:

    i) On 21 October 2021 Andrew Baker J had made an order permitting alternative service of any documents in these proceedings on the First to Third Defendants by email to Mr Corcoran at one of four identified email addresses;

    ii) I was told by Mr England, who appeared at the trial for XL, that documents had been sent to this email address and had not "bounced

back", and so it could be taken that Mr Corcoran and the First to Third Defendants had received them;

iii) Indeed, there were email exchanges in relation to the listing of the trial that had been directed to me (via my clerks) and which I had read which were copied to Mr Corcoran at one of the identified email addresses.

46. Secondly, against that background, and given the interlocutory history of the matter as I have described it in the paragraphs above, it was obvious that the First to Third Defendants were aware that this hearing was taking place but that, consistent with the approach they had taken during the preceding five years (and, in the case of Mr Corcoran, mindful, no doubt, that there was an outstanding warrant for his arrest), they had deliberately decided not to appear at and not to participate in the trial.

47. It was, of course, necessary notwithstanding the First to Third Defendants' non-attendance for XL to prove its claim and to prove that it was entitled to the relief that it sought. To that end, over the course of a day and a half:

i) Mr England took me through the documents in some detail, addressing each element of each of his client's claims. I was also taken to passages in a number of authorities referred to in his skeleton argument;

ii) XL's factual witnesses largely spoke to the documents (the bulk of their evidence had been adduced for the purposes of the preceding interlocutory hearings). Nonetheless, Mr England called Mr Raymond Koh, an Associate General Counsel, and Mr Andrew Hall, a solicitor, both employed by XLCSE, to confirm the contents of their affidavits and witness statements. A hearsay notice had been served in respect of Mr Robb's evidence.

48. Mr Hogan of Baker Tilly, whose analysis underlay many of XL's claims, was called to give oral evidence. He confirmed the truth of his four expert reports, subject to two minor corrections which he dealt with orally.

49. I had the opportunity to ask Mr Hogan questions and I did so, in particular asking him about the extent to which his calculations took into account the commission that IPORS was entitled to charge and to deduct from premiums remitted to XL on the premium allegedly under-declared. Mr Hogan produced a revised Schedule 1 to his Fourth Report to deal with this shortly after the hearing. I attach this as Appendix 1 to this judgment.

50. During the course of his submissions, consistent with the practice commended by Field J in *Habib Bank Ltd v Central Bank of Sudan* [2006] EWHC 1767 (Comm), [2006] 2 Lloyd's Rep. 412 at [9] and referred to with approval in subsequent authorities, Mr England drew to my attention any points, factual or legal, that might be to the benefit of the First to Third Defendants. I am grateful to him, and to those instructing him, for their assistance.

51. In the sections that follow, I deal with the claims against each of the First to Third Defendants in turn. I leave the relief sought by XL in relation to 14

Moseley Road to the end. As will be apparent, in general terms, having read the documents and listened to the evidence, and having carefully considered Mr England's submissions, I am satisfied that XL is entitled to the relief that it seeks.

F. The Claims against IPORS

52. XL's primary claim against IPORS is for breach of contract, namely for breach of the terms of the Binders which obliged it to declare all premiums to the Binders and to pay over those premiums to XL less permissible deductions.[1]

53. As IPORS was appointed to act as XL's agent in respect of the receipt and onwards transmission of premiums, and as it was expressly required to hold premiums in separate trust accounts (see, *e.g.*, section 27 of the 2016 Binder), IPORS' failure to hold premiums in the Premium Accounts, its transfer of premiums (beyond any entitlement to commission) to the IPORS Business Account, and its failure to pay premiums to XL were also alleged to involve a breach of trust and/or fiduciary duty.

54. So far as these claims are concerned, I have set out the pertinent terms of the Binders in paragraphs 9 and 10 above. There can be no dispute about the nature of IPORS' status or about its contractual obligations: the fact that IPORS was appointed as XL's agent under the Binding Authority Agreements, that it agreed to hold premiums in separate bank accounts on trust, that it was obliged to pay premiums over to, XL, and that it owed duties as a fiduciary and as a trustee.

55. As for the amounts of premiums received by IPORS, the deductions that IPORS was entitled to make from them, and the amounts of premium which should have been, but which were not, remitted to XL but were transferred elsewhere, these were the subject of Mr Hogan's analysis, which he conducted based on his review of:

    i) The bank statements for accounts held by IPORS (both the Premium Accounts and the IPORS Business Account), the PC Personal Account and other accounts held by Mr Corcoran;

    ii) The monthly premium bordereaux provided by IPORS to XL;

    iii) Mr Corcoran's personal tax records;

    iv) HMRC's disclosure, and non-party disclosure provided by other third parties, including Mr Corcoran's accountants, Harold Sharp Limited, and his solicitors, Nicholls Solicitors Limited in relation to the purchase of 14 Moseley Road;

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[1] There were other pleaded allegations of breach, *e.g.*, of breach of the terms of the Binders which obliged IPORS to comply with requests for information and to permit an audit to take place. The breaches alleged were made out, but no separate damages were claimed in relation to them.

v) The results of enquiries made by XL of brokers who had placed insurance business with IPORS as to their agreed brokerage which revealed that the average brokerage rate was 17.5%; and

vi) The amounts actually remitted to XL.

56. The results of Mr Hogan's analysis were summarised in Schedule 1 to his Fourth Report, as amended by the revised Schedule 1 provided to me shortly after the hearing, which appears as Appendix 1 to this judgment.

57. As can be seen, Mr Hogan's Schedule 1 divided IPORS' business into two segments:

i) UK Business, for which premiums would be paid in Sterling into the NatWest sterling premium account, and

ii) Republic of Ireland (Eire) Business, for which premiums would be paid in Euros into either the NatWest or Ulster Bank Euro premium accounts.

58. In relation to each section, Mr Hogan's Schedule 1 showed the position for the individual years 2013, 2014, 2015, 2016, 2017 and 2018 (in each case ending 31 March) and the cumulative total position over all the years as follows:

i) He first identified the annual gross premiums declared by IPORS in the relevant bordereaux. The cumulative figure for UK Business was £1,640,153 to which Mr Hogan added a premium levy received by IPORS. Mr Hogan then deducted the estimated placing brokerage of 17.5% deducted at source to reach a total figure for the premiums and levies receivable by IPORS. The cumulative figure for UK Business was £1,454,111;

ii) In order to calculate the net amount that should have been remitted to XL, it was necessary for Mr Hogan to deduct IPORS' own commission, *i.e.,* the difference between the brokerage and the total permitted commission of 35% or 37.5%. The cumulative figure for UK Business that ought to have been remitted was £1,139,486 but the actual amount remitted only £1,022,366. The cumulative shortfall for UK Business was thus £117,120; the Republic of Ireland cumulative shortfall was much higher at €5,194,283;[2]

iii) The exercise described in the two sub-paragraphs above identified the shortfall in the amounts paid to XL as against the amounts shown as payable in the bordereaux. As I indicated earlier, however, premium had been under-declared. Schedule 1 identified this variance: the difference between the estimated premiums and levies receivable by IPORS according to the bordereaux and the amounts actually received. The cumulative variance for UK Business was £254,579 and the cumulative variance for Eire Business was €3,033,276;

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2 The evidence was that the bulk of IPORS' business was in Ireland.

iv) In order to work out what portion of this under-declared premium ought to have been paid to XL, however, it was necessary to deduct the commission to which IPORS was entitled to deduct from that premium. The version of Schedule 1 accompanying Mr Hogan's Fourth Report did not deal with this, and I raised it with Mr England during the course of argument and subsequently with Mr Hogan himself;

v) Mr England did not formally concede that this commission needed to be deducted, but in my judgment it has to be. On ordinary principles, XL is entitled in relation to its claim for breach of contract to be put in the position it would have been in if IPORS had performed its contractual obligation to declare all premiums to the Binder; but if IPORS had done so, then it would have been entitled to deduct its own commission before remitting sums to XL;

vi) Mr Hogan produced a revised version of Schedule 1 which dealt with this: the cumulative variance figures, after deduction of IPORS commission were UK Business £179,469 and Eire Business €2,166,626.

59. The result of the whole exercise, taking into account the under-declared premium and IPORS' entitlement to commission, was that the cumulative figures across all years for the amount of premiums which ought to have been received into and held by IPORS in the Premium Accounts as trustee and which ought to have been, but had not been, paid over to XL were as follows:

i) UK Business £296,589; and

ii) Eire Business: €7,360,909 (equivalent to £6,134,091 at an assumed exchange rate of €1.2 to £1, the average rate across the period of the Binders).

60. Mr Hogan explained that he had not seen any evidence of credits due to IPORS, and I have similarly seen no evidence that there are any credits that fall to be deducted from these amounts.

61. There is, in my judgment, no defence to XL's claim against IPORS for non-payment of these sums. I accordingly find IPORS liable to XL in debt and/or in damages for breach of contract, and as equitable compensation for breach of trust and fiduciary duty, in the amounts of £296,589 and €7,360,909.

62. XL also claimed equitable compensation from IPORS for knowing receipt based upon the premium funds that had been transferred out of the Premium Accounts into the IPORS Business Account. Mr Hogan's analysis of the bank statements, reflected in Annex C to the Particulars of Claim, showed that between May 2012 and May 2017 £9,909,791 had been transferred into the IPORS Business Account.

63. Some part of those transfers might have been legitimate commission, but the bulk of the sums transferred could not have been – for the transfers to have been legitimate, the gross premium written by IPORS would have had to have been substantially higher. The evidence was that the only year in which legitimate

commission would have covered IPORS' office expenses was the first year in which the Binders were in operation, 2012/13.

64. As explained in *Civil Fraud, Law, Practice & Procedure* at paragraph 12-001, English law recognises two claims that may lie in equity against a third party who comes to be mixed up in a breach of trust or fiduciary duty, the first of which is a claim for knowing (or, as it is also known, unconscionable) receipt. The essential requirements of a claim in knowing receipt are summarised in paragraph 12-003; a claimant must show:

    i) Receipt of the claimant's assets (or their traceable proceeds) by the defendant;

    ii) Such receipt arising from a breach of fiduciary duty or trust owed to the claimant by a third party; and

    iii) Knowledge on the part of the defendant that the assets he received are traceable to a breach of fiduciary duty or trust, sufficient to make it unconscionable for him to retain the benefit of the receipt.[3]

65. A claim in knowing receipt lies against a third party – a stranger to a trust - who comes to be mixed up in a breach of trust or fiduciary duty on the part of another. Here, however, IPORS is not a third party – it is the primary wrongdoer. Even if (as Mr England's submissions suggested) a claim in knowing receipt based on the transfer of funds into the IPORS Business Account is technically possible, it adds nothing to IPORS' primary liability as trustee.

66. The sums remaining in the NatWest Euro and Sterling premium accounts were either nil or negligible but, as explained in Mr Hall's Ninth Witness Statement, at the time it was frozen there remained an amount of €160,075.94 in the Ulster Bank premium account. XL seeks to trace its funds into that account, but the reality is that these are sums that IPORS has expressly agreed to hold on trust for XL pursuant to the terms of the Binders.

67. There has been no allegation that XL's funds in this account have been mixed with funds that are beneficially owned by IPORS – and, because the account was a designated premium account, there should have been no mixing – but, if there had been, Mr England is correct that XL would be entitled to rely upon the principle in *In Re Hallett's Estate* (1880) 13 Ch. D 696 to say that IPORS should be treated as having spent its own money first.

68. XL seeks a declaration that the amount of €160,075.94 held in the Ulster Bank Euro premium account is held by IPORS on trust for XL and an order that it should be paid over to XL. XL is, in my judgment, entitled to that relief.

G. The Claims against Mr Corcoran

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[3] These principles are derived from two decisions of the Court of Appeal: *El Ajou v Dollar Land Holdings Plc* [1994] 2 All E.R. 685 at 700 and *Bank of Credit and Commerce International (Overseas) Ltd v Akindele* [2001] Ch. 437 at 455.

69. Mr Corcoran was and is the sole shareholder and director of IPORS. Some of the Binders in my bundles were unsigned copies (although there was no doubt that the relevant Binders had been concluded), but where there were signed copies the Binders had been signed on behalf of IPORS by Mr Corcoran. Mr Corcoran was obviously aware of the terms of the Binders, including the requirement for premiums to be held on trust for XL in separate accounts.

70. Two claims were made against Mr Corcoran.

71. The first was a claim in knowing receipt based on the transfer of premiums from the Premium Accounts via the IPORS Business Account into the PC Personal Account. Mr Hogan's analysis, reflected in Annex C to the Particulars of Claim, showed that over the period May 2012 to May 2017 some £9,909,791 had been transferred from the Premium Accounts to the IPORS Business Account with £7,298,968 then being transferred from the IPORS Business Account to the PC Personal Account.

72. I referred to the essential ingredients for a claim in knowing receipt in paragraph 64 above. The first is receipt by the defendant of the claimant's assets or their traceable proceeds. So far as that is concerned, Mr England reminded me in paragraph 49 of his skeleton argument and orally of a number of general principles concerning equitable tracing including the following:

    i) Tracing is not a claim or a remedy, but an evidential process by which a claimant seeks to show that an interest he had in an asset is now represented by an interest in a different asset: *Foskett v McKeown* [2001] 1 AC 102 at 113B (Lord Steyn) and 128C-E (Lord Millett);

    ii) The claimant does not need to satisfy a "but for" test of causation, *i.e.*, to show that the substitute asset would not have been acquired but for the receipt of the original property. The issue is one of attribution not causation: the claimant's burden is simply to show that the value in any substitute property is attributable to the original property: *Foskett* at 137G (Lord Millett);

    iii) If a trustee mixes trust assets with assets of his own, the onus is on the trustee to distinguish the separate assets, and to the extent that he or she fails to do so the assets belong to the trust: *In Re Tilley's Will Trusts* [1967] Ch. 1179 at 1183 (Ungoed-Thomas J);

    iv) A claimant is able to choose, depending upon the circumstances, whether to rely on the rule in *In Re Hallett's Estate* (that the defendant spends his own money first, enabling tracing into funds remaining in a bank account) or *In Re Oatway* [1903] 2 Ch. 356 (that the defendant spends the claimant's money first, enabling the claimant to trace into an asset purchased); and

    v) When determining whether an interest in one asset is now represented by an interest in another:

a) A court is able to draw inferences as to the source of monies and the purpose of payments: *El Ajou v Dollar Land Holdings Plc (No. 1)* [1993] 3 All E.R. 717 at 734J-736D (Millett J); [1994] 2 All E.R. 685 at 692F-693F (Court of Appeal);

b) The court is concerned with the substance of the matter, and payments do not need to be in strict chronological sequence so long as it remains possible to trace substitutions in value: *Relfo Limited (in liquidation) v Varsani* [2014] EWCA Civ 360 at [63] (Arden LJ); *Federal Republic of Brazil v Durant* [2015] UKPC 35, [2016] AC 297 at [38] (Lord Toulson). In *Durant*, Lord Toulson said this:

> "The development of increasingly sophisticated and elaborate methods of money laundering, often involving a web of credits and debits between intermediaries, makes it particularly important that a court should not allow a camouflage of interconnected transactions to obscure its vision of their true overall purpose and effect. If the court is satisfied that the various steps are part of a coordinated scheme, it should not matter that, either as a deliberate part of the choreography or possibly because of the incidents of the banking system, a debit appears in the bank account of Page 11 an intermediary before a reciprocal credit entry. The Board agrees with Sir Richard Scott V-C's observation in Foskett v McKeown that the availability of equitable remedies ought to depend on the substance of the transaction in question and not upon the strict order in which associated events occur."

73. On the issue of whether the £7,298,968 transferred to the PC Personal Account was attributable to XL's premiums, transferred by IPORS in breach of trust and/or fiduciary duty, Mr England relied upon a number of matters.

74. First, he relied upon the absence of any Defence from Mr Corcoran, the fact that Mr Corcoran had never sought to explain the payments made to him, and Mr Corcoran's non-compliance with the orders for proprietary disclosure including as to what assets had been acquired in whole or in part from XL's premium funds, the purpose of any transfers, and what had become of any funds transferred from the Premium Accounts.

75. Secondly, he said that, even though transfers did not need to be in strict chronological order (see paragraph 72 v) above), on the evidence there was a straightforward temporal link between the transfer of monies from the Premium Accounts into the IPORS Business Account and the onwards transfer of sums to the PC Personal Account, which were routinely made either the same day or within a matter of a few days.

76. The detail in this regard was contained in Annex C to the Particulars of Claim. This showed the history of transfers between the IPORS Business Account and the PC Personal Account between 11 May 2012 to 22 May 2017. I was taken to the bank statements for a number of entries and was able to confirm its accuracy. The annex amply demonstrated the close timing of payments. Simply by way of example:

    i) On 1 February 2016 €100,000 was transferred from the NatWest Euro premium account to the IPORS Business Account where it was shown as a credit of £75,071. Prior to the transfer, the IPORS Business Account had a credit balance of only £4,399. On the same day £70,000 was transferred from the IPORS Business Account to the PC Personal Account;

    ii) On 3 April 2017 €332,423 was transferred from the Ulster Bank Euro premium account to the IPORS Business Account where it was shown as a credit of £279,626. Prior to the transfer, the IPORS Business Account had a credit balance of £10,569. On the same day £250,000 was transferred from the IPORS Business Account to the PC Personal Account.

77. Thirdly, Mr England submitted that there was no evidence that Mr Corcoran had any source of income, other than monies transferred from IPORS (and improperly transferred from the Premium Accounts), which could potentially have been the source of the funds in his accounts. The principal analysis in this regard was contained in paragraphs 4.05 – 4.09 of and Schedule 1 to Mr Hogan's Third Expert Report. For example, and as Mr Hogan explained:[4]

    i) Mr Corcoran's bank statements from April 2014 to March 2015 indicated total receipts from IPORS of £1,645,795 and a balance on 31 March 2015 of £12,429. Without the IPORS payments, the PC Personal Account would have been overdrawn by £1,633,365; and

    ii) For the period April 2015 to March 2016, total receipts from IPORS were £2,116,969 with a balance on 31 March 2016 of £8,614. If the payments from IPORS had not been made, the PC Personal Account would have been overdrawn by £2,108,355.

    Mr England told me, based on Mr Hogan's analysis, that if one were to strip out from the PC Personal Account the preceding transfers from the IPORS Office Account over the whole period from May 2012 to May 2017, the PC Personal Account would have been overdrawn by £6,720,583.

78. The position shown by Mr Corcoran's bank statements was confirmed by the disclosure from his accountants and from HMRC. This included Mr Corcoran's personal tax computations and his tax returns for the years ending 5 April 2013 through to 5 April 2017. These showed very small amounts of income from another company, but the overwhelming bulk of Mr Corcoran's income was

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4 Mr Hogan's analysis included not just the PC Personal Account but a number of other accounts Mr Corcoran had, including an account with his wife and an e-savings account.

identified as "cash dividends" from IPORS (although there was no evidence that dividends had lawfully been declared).

79. Fourthly, the amounts transferred to the IPORS Business Account and then onwards to the PC Personal Account could not represent legitimate commission because, as the analysis in Annex E to the Particulars of Claim showed, the levels of gross premium written by IPORS simply did not justify it. For the 2013/14 year, for example, the gross written premium was some £3.7 million lower than would have been necessary to generate sufficient commission to finance IPORS' expenditure in that year.

80. The last transfer from the IPORS Business Account to the PC Personal Account was a transfer of £60,000 on 22 May 2017. The credit balance on the PC Personal Account immediately after that transfer was £343,364. At the time the PC Personal Account was frozen in September 2017 the balance had reduced to £217,345; I was told it had reduced slightly since then. There have been no substantial deposits from other sources.

81. Taking all this evidence together, I am satisfied that the overwhelming part of the £7,298,968 transferred from the IPORS Business Account to the PC Personal Account - and certainly amounts well in excess of the current balance on the PC Personal Account - was traceable to XL's premium funds. The transfers could only have been made because of the prior transfers from the Premium Accounts to the IPORS Business Account, which involved a breach of fiduciary duty and/or trust on IPORS' part.

82. Given that Mr Corcoran was the sole director and shareholder of IPORS, there can be no doubt that he must have been aware that the sums transferred to him were traceable to IPORS' breach of fiduciary duty and breach of trust. In these circumstances, and in the absence of any contrary evidence, I infer that it was Mr Corcoran himself who instigated these transfers. It would be unconscionable for Mr Corcoran to retain the sums he received, and I am satisfied that Mr Corcoran is liable in knowing receipt.

83. XL also brings a claim against Mr Corcoran for dishonest assistance in IPORS' breach of trust, seeking equitable compensation for the amounts of £296,589 and €7,360,909 referred to in paragraph 61 above which has been disposed of by IPORS and/or not remitted to XL in breach of trust. The ingredients of such a claim are well-known; as summarised in *Civil Fraud* at paragraph 13-003, such a claim requires:

    i) A breach of trust or fiduciary duty;

    ii) Procurement of or assistance in that breach of duty by the defendant; and

    iii) Dishonesty on the part of the defendant.

84. For the reasons set out above, there can be no dispute that the first two ingredients are satisfied: IPORS had acted in breach of trust and/or fiduciary duty in disposing of and/or in not remitting premiums received by it on behalf XL; those breaches were procured and/or assisted by Mr Corcoran, who was

IPORS sole director and shareholder and the person who controlled the Premium Accounts.

85. As for the third ingredient, the standard is objective: a defendant is to be judged according to the standards of an ordinary, honest person who has the same knowledge of the circumstances as he does; it is not necessary that the defendant appreciates that his conduct is dishonest by those standards: *Group Seven Ltd v Nasir* [2019] EWCA Civ 614, [2020] Ch. 129 at [58]. Again, on the evidence, I have no hesitation in concluding that Mr Corcoran's conduct, which involved the wholesale looting of XL's premium funds, was dishonest. XL's claim is, therefore, well-founded.

86. In addition to the personal claims against Mr Corcoran in knowing receipt and dishonest assistance, XL sought to trace its premium funds into the remaining credit balance in the PC Personal Account. As I indicated in paragraph 80 above, the account had a credit balance of £217,345 at the time it was frozen; the latest bank statement I was shown indicated a credit balance of £210,647 as at 3 December 2019.

87. I summarised the relevant principles in paragraph 72 above. Mr England submitted that:

    i) Substantial amounts traceable to XL's premium funds had been paid into the PC Personal Account, well in excess of the current balance on the account;

    ii) At the time of the last payment into the PC Personal Account emanating (via the IPORS Business Account) from XL's funds on 22 May 2017, the credit balance on the account was £343,364 which is higher than its current balance; and

    iii) XL was entitled to rely upon the rule in *In Re Hallett's Estate*, namely that Mr Corcoran should be treated as spending his own money first entitling XL to trace into the balance on the account.

88. I accept these submissions. XL is entitled to trace into the remaining balance on the PC Personal Account, which is held on constructive trust for XL and/or over which XL has an equitable lien, and which I order should be paid over to XL. I note that NatWest was contacted by XL and on 4 February 2022 it confirmed that it would comply with such an order when made, raising no objection.

H. The Claim against CPC

89. XL's claim against CPC is a claim in knowing receipt in respect of the £378,500 that was transferred to it from the PC Personal Account.

90. CPC was incorporated on 25 June 2016, around the time that the dispute between IPORS and XL arose. As the name of the company suggests, it had nothing to do with insurance; it appears to reflect that one of Mr Corcoran's hobbies was prestige cars. The description of its principal activity in its

Companies House filing is "renting and leasing of cars and light motor vehicles".

91. Annex D to the Particulars of Claim set out details of the 25 transfers made from the PC Personal Account to CPC's account with NatWest (the "CPC Account") between 6 September 2016 and 19 September 2017 shortly before the date on which the account was frozen. The transfers were for round sums varying between £5,000 and £40,000 and totalled £378,500.

92. The evidence demonstrated that there was a close temporal relationship between transfers from the Premium Accounts into the IPORS Office Account and onwards to the PC Personal Account and the transfers from the PC Personal Account to the CPC Account. Simply by way of example:

    i) On 29 September 2016 there was a transfer of €34,006 to from the NatWest Euro premium account to the IPORS Business Account where it appeared as a credit of £28,763;

    ii) On the same day, there was a transfer of £29,331 from the IPORS Business Account to the PC Personal Account. Then, again on the same day, there was a transfer of £10,000 from the PC Personal Account to the CPC Account.

93. In support of his submission that I should conclude that these transfers into the CPC Account were traceable to XL's premium funds, Mr England relied upon the principles set out in paragraph 72 and upon similar points to those he had made in relation to Mr Corcoran set out in paragraphs 73 to 80 above, in particular:

    i) The fact that CPC had served no Defence and had provided no evidence or disclosure, and that it was in breach of the terms of the proprietary and freezing injunctions, including the terms requiring CPC to explain the purpose of any transfer, and what had become of any funds transferred, from the Premium Accounts;

    ii) The analysis performed by Mr Hogan which showed that, as at both the 6 September 2016 and 19 September 2017 dates when the first and last transfers were made, both the IPORS Business Account and the PC Personal Account would have been substantially overdrawn without the (improper) prior transfers from the Premium Accounts and thus would not have been in a position to make those transfers;

    iii) The timing of CPC's incorporation and of the transfers into its account; it was incorporated after the dispute between XL and IPORS had arisen, and the transfers were made at a time when XL was demanding payment of its premium, which IPORS, and Mr Corcoran, CPC's sole director and shareholder, must have known it was, unable to pay, the suggestion being, as I understood it, that the transfers were part of an attempt to hide funds.

94. I am satisfied that the £378,500 transferred to the CPC Account was traceable to XL's premium funds. The transfers were only possible because of the prior transfers from the Premium Accounts, which involved a breach of fiduciary duty and a breach of trust on the part of IPORS, of which Mr Corcoran, the sole director and shareholder of both IPORS and CPC, was plainly aware. It would be unconscionable for CPC to retain the sums received. It is liable to XL in the amount of £378,500.00 for knowing receipt.

95. At the time the CPC Account was frozen in November 2017 the credit balance remaining in the account was £92,973. In my judgment, for essentially the same reasons as I gave in paragraphs 86 to 88 in relation to the PC Personal Account, XL is entitled to trace into this balance, which is held on constructive trust for XL and/or over which XL has an equitable lien, and which I order should be paid over to XL.

I. 14 Moseley Road

96. An extract from HM Land Register showed that Mr Corcoran is the Registered Owner of 14 Moseley Road which was purchased by him on 1 October 2014 for £840,000.00. The extract records a charge over the property held by NatWest of the same date, which indicates that NatWest had provided mortgage finance for the purchase, subsequently amended by deed on 29 February 2016 to reflect a further mortgage.

97. I will deal with the circumstances in which Mr Corcoran purchased, mortgaged and then remortgaged 14 Moseley Road in a moment, but it is convenient to deal first with the current status of the property. On 20 February 2020, by an order of the Stockport County Court, 14 Moseley Road was repossessed by NatWest. The order entered judgment for Nat West for £853,354, the then outstanding balance of the mortgage.

98. It emerged during the course of XL's asset tracing exercise that in September 2020, after his assets had been frozen and so in breach of the injunction, Mr Corcoran had managed to rent out the property through an agent to an overseas tenant using an alias, Paul Clarke, directing that the rent be paid into an account in the name of Paul Clarke at Monzo Bank. NatWest has now secured vacant possession.

99. The current valuation of 14 Moseley Road, I was told, is in the region of £1.3 million. Allowing for NatWest's charge, which XL does not dispute or challenge, and the likely costs of sale, it is thought that there may be in the region of £400,000 by way of surplus sales proceeds. Cockerill J's 4 April 2022 order records that NatWest has agreed to pay the surplus proceeds of sale into court.

100. XL seeks a declaration that it has a beneficial interest in 14 Moseley Road to the value of at least £551,000, and therefore in excess of the likely net proceeds of sale. It does so on the basis that XL's premium funds have been used either to fund or contribute to the purchase or the property, or to discharge a debt incurred by Mr Corcoran for the purpose of acquiring the property and intended to be repaid, and actually repaid, using XL's premium funds; specifically to:

i) Fund a £50,128 deposit for the initial purchase of the property in 2014;

ii) Make mortgage payments on 14 Moseley Road – repayments of the initial mortgage (£87,400) and the February 2016 remortgage (£193,594) - and thus to discharge a debt incurred by Mr Corcoran for the purpose of acquiring the property; and

iii) Make mortgage payments (£220,733) on another property, 5 Quarrymans View, Timperley, Altrincham, WA15 7SB ("Quarrymans View"), the proceeds of sale of which were then applied in the purchase of 14 Moseley Road.

101. The three sources of funds for the purchase of 14 Moseley Road – the deposit, the mortgage finance provided by NatWest (the original mortgage) and the proceeds of sale of Quarrymans View - are shown in a Matter Account Report prepared by Mr Corcoran's solicitors, Nicholls Solicitors ("Nicholls"). Mr Hogan summarised the source of funds in paragraph 3.02.17 of his Fourth Expert Report in the following table:

Date	Source / description	£
19-Sep-14	Deposit from client	50,128
29-Sep-14	Lloyds mortgage advance	587,970
30-Sep-14	Proceeds from sale - Nicholls matter COR017/06	245,403
Total		**883,500**

(a) The deposit

102. The first item is the deposit. Mr Hogan analysed the source of funds for this deposit in paragraphs 3.11 to 3.13 of his Third Expert Report (he corrected a mistake in relation to a date in those paragraphs in his oral evidence). As his analysis, supported by the bank statements I was shown, demonstrated:

i) Mr Corcoran paid Nicholls £50,151 to fund the deposit on 19 September 2014 from the PC Personal Account. That payment was preceded by a transfer from the IPORS Business Account on the same day of £56,000. Without that transfer, the PC Personal Account would have had a credit balance of only £7,733 which would have been insufficient to fund the deposit payment; and

ii) The transfer of £56,000 from the IPORS Business Account into the PC Personal Account was preceded by a transfer from the Ulster Bank Euro premium account into the IPORS Business Account of €84,117 (£65,138) again on the same day. Without that transfer, the IPORS Business Account had a credit balance of only £1,062 which would have been insufficient to fund the transfer.

103. Prior to 19 September 2014, when the payments referred to in paragraph 102 above were made, the IPORS Business Account had received transfers from the Premium Accounts totalling £1,642,702 without which the IPORS Business Account would have been overdrawn by £2,623,606. As I have already explained, the transfers from the Premium Accounts to the IPORS Business

Account cannot be justified on the basis that they involved legitimate transfers of commission.

104. Indeed, as at 19 September 2014, the cumulative variance, *i.e.*, the shortfall in premiums paid to XL, taking into account both the sums shown as due on the bordereaux prepared by IPORS and the under-declared premium, as shown in Mr Hogan's Schedule 1 was between £1,975,245 (the figure as at 31 March 2014) and £3,579,500 (the figure as at 31 March 2015).

105. Mr England invited me to conclude against this background, and bearing in mind the other matters that I have previously referred to, including the absence of any Defence from Mr Corcoran and his refusal to comply with the court's orders requiring disclosure of the purpose of the transfers from the Premium Accounts, that the deposit had been effectively funded by sums wrongfully paid out of the Premium Accounts, and I do.

(b) The mortgage repayments

106. The second and third items both concern mortgage payments. I propose to take these in chronological order, starting with the mortgage relating to the property at Quarrymans View.

107. Mr England's point in relation to both mortgages was, however, the same: that the mortgages were taken out by Mr Corcoran in anticipation of receipt of funds; that the only source of funds that Mr Corcoran had throughout the relevant period was IPORS, a very substantial part of whose monies were acquired by misappropriation of XL's premium funds, and the mortgages were intended to be repaid using these funds; and that the pattern of transfers across the various accounts supported the conclusion that the mortgages were in fact repaid with XL's premium funds.

108. So far as the law is concerned, Mr England relied upon three passages in *Lewin on Trusts* (20th ed.):

i) The discussion of "backwards tracing", *i.e.*, the discharge of loans raised to acquire property, in paragraph 44-114, an exception to the general rule that trust money cannot be traced into an asset bought before the money was misappropriated from the trust:[5]

> "This is so where trust money is used to discharge a debt incurred by the trustee for the purpose of acquiring an asset, as where the trustee is allowed credit by the seller, or raises a secured loan for the specific purpose of acquiring the asset, and the debt or the loan is repaid out of trust money. In the past there has been much controversy whether the argument that backward tracing is permissible in this type of case is correct. But the Privy Council has held that backward tracing is permissible where there is a close causal and transactional link

[5] Mr England also referred me to the alternative approach described at paragraph 44-115.

> between the incurring of a debt for the purpose of acquiring property in circumstances where the debt is incurred for the purposing of acquiring property and the debt is intended to be repaid at the time of acquisition of the property, and is subsequently repaid, from the claimant's money wrongfully taken by the defendant. It has been held in New Zealand that there must be a direct and substantial link between acquiring the property and the use of the misappropriated money, and accordingly payments out of misappropriated trust money of mortgage instalments in respect of a property the acquisition of which is unconnected with the misappropriation cannot be traced backwards into the property itself so as to create a proprietary interest in the property."

The Privy Council decision referred to in this passage, permitting backwards tracing where there is a "close causal and transactional link" between the incurring of the debt for the purpose of acquiring property and its subsequent repayment with the claimant's money, is the *Durant* case referred to at paragraph 72 v) (b) above, see esp. [34]-[38] (Lord Toulson);

ii) The discussion at paragraphs 44-075 and 44-076 of two situations, first where trust money is used to pay the whole or part of the deposit on an asset, or the deposit and part of the purchase money paid on completion, with the balance of the price being raised by way of mortgage, and secondly where the trustee uses his own money to pay the deposit but then uses trust money to pay off the mortgage:

> "If trust money is used to pay the whole or part of the deposit on an asset, or the deposit and part of the purchase money paid on completion, the balance of the purchase money being raised by the trustee or other wrongdoer by mortgage secured on the asset, the money raised on mortgage does not count as a contribution by him to the purchase, since his ability to obtain the loan was dependent on the unauthorised acquisition with trust money of the asset which formed the security." (44-075)

> "The converse case is where the trustee or other recipient of trust money uses his own money to pay the deposit, or the deposit and part of the purchase money on an asset, raising the balance of the purchase money on mortgage, and then uses the trust money to pay off the principal of the mortgage in whole or in part. The position here is not clear, but at any rate if backward tracing is permissible, we consider that the beneficiary will acquire an interest in the asset proportionate to the amount which the trust money

> used to pay off the mortgage bears to the purchase price." (44-076)

109. An extract from HM Land Register showed that Mr Corcoran purchased a leasehold interest in the property at Quarrymans View on 14 March 2008. The purchase price is not recorded in the entry, nor is it apparent whether Mr Corcoran obtained mortgage finance for the initial purchase. Obviously, as Mr Corcoran's relationship with XL only commenced in 2012, there is no question of the property being purchased using XL's funds.

110. An Annual Mortgage Statement issued by NatWest dated 12 March 2013 shows, however, that on 23 March 2012, some five years after the purchase of Quarrymans View, Mr Corcoran raised £458,441 by taking out a 20-year mortgage on the property. As Mr England pointed out, this was very close in time to the conclusion of the 2012 Binder on 26 March 2012.

111. Mr England submitted that, whilst IPORS may not have received enough premium in the early days to allow Mr Corcoran to draw a large lump sum for his use from these funds, once the first Binder had been concluded Mr Corcoran knew that there would be a premium stream which would allow him to make monthly repayments, and so he could raise a lump sum by mortgage in that way in anticipation of being able to pay it off using XL's premium funds.

112. The same Mortgage Statement shows that monthly mortgage repayments of around £1,500 per month were made from 12 April 2012 through to 28 February 2013 in all cases from the PC Personal Account. A subsequent statement shows further repayments were made up to September 2014. In all, some 30 repayments were made totalling £220,734. On 2 October 2014 Mr Corcoran repaid the full outstanding balance of £278,706, at which point the mortgage account was closed.

113. In paragraph 55 of his First Witness Statement dated 30 June 2021 Mr Koh included a table (Table B), prepared by reference to the disclosed bank statements, which demonstrated that:

    i) Some £177,502 of the £220,733 mortgage repayments were preceded by prior transfers from the IPORS Business Account, either on the same day or a few days beforehand (up to a maximum of 12 days);

    ii) The remaining mortgage payments were preceded by transfers either from an earlier IPORS business account or from an e-savings account held by Mr Corcoran at NatWest, an account which only ever included funds received either from the IPORS Business Account or the PC Personal Account.

114. As to whether these repayments were made using XL's premium funds, Mr England also relied upon the fact that between 29 March 2012, when the mortgage on Quarrymans View was taken out, and 1 September 2014, when the last repayment was made, total receipts into the IPORS Business Account amounted to £2,621,178 with £2,577,564 (98.3%) funded by transfers from the

Premium Accounts, the amount of these transfers far exceeding any legitimate commission.

115. Patently, without the receipts from the Premium Account, the IPORS Business Account would have been substantially overdrawn and would not have been able to make the transfers to the PC Personal Account that invariably preceded these mortgage payments. There is no evidence that Mr Corcoran had any source of funds. Mr Hogan's calculation was that, without the transfers from the IPORS Business Account, by 30 September 2014 the PC Personal Account would have been overdrawn by £1,898,999.

116. The closure of the NatWest mortgage account in relation to Quarrymans View coincided with Mr Corcoran's sale of that property and his purchase of 14 Moseley Road:

    i) The HM Land Register Registry extract for Quarrymans View shows that Mr Corcoran sold the property on 30 September 2014 for £525,000;

    ii) As set out in paragraph 96 above, Mr Corcoran purchased 14 Moseley Road on 1 October 2014 for £840,000.

117. The table in Mr Hogan's Third Expert Report shows that, in addition to the deposit of £50,128, some £245,403 of the purchase price of 14 Moseley Road was paid by using the net sale proceeds of Quarrymans View. Mr England made clear in his submissions that he was not seeking to trace into the sale proceeds as such, simply into the mortgage repayments made using XL's premium funds insofar as their value was now reflected in 14 Moseley Road.

118. The third element of the purchase price of 14 Moseley Road was paid by way of a new mortgage taken out by Mr Corcoran with NatWest at the time of its purchase for £588,000.00 which was initially due to run for 11 years and 5 months. Annual Mortgage Statements for that mortgage show 17 monthly repayments being made of £5,141 during the period from 3 November 2014 to 1 March 2016 totalling £87,400 at which point Mr Corcoran paid off the entire outstanding balance of £529,278.

119. The pattern in relation to the repayments made in relation to this first mortgage of 14 Moseley Road was similar to that described in relation to Quarrymans View at paragraph 113 above. The mortgage payments were made from the PC Personal Account and almost every payment was preceded, commonly on the same day or a few days earlier, by a transfer into the PC Personal Account from the IPORS Business Account or on one occasion from Mr Corcoran's e-savings account.

120. In support of his case that it could be inferred that these payments were made using XL's premium funds wrongfully transferred from the Premium Accounts, Mr England relied upon the facts that:

    i) By the time the first mortgage repayment was made on 3 November 2014 Mr Corcoran had received £2,137,218 into the PC Personal Account

from the IPORS Business Account without which the PC Personal Account would have been overdrawn by £1,969,588;

ii) By 1 March 2016, when the last mortgage repayment was made, Mr Corcoran had received £4,634,393 into the PC Personal Account from the IPORS Business Account without which the PC Personal Account would have been overdrawn by £4,616,261; and

iii) By this 1 March 2016 date, some 99.9% of the funds in the IPORS Business Account had come from the Premium Accounts.

121. The cumulative variance as shown in Mr Hogan's Schedule 1 during the period of these mortgage repayments was £1,975,245 (31 March 2014), £3,579,500 (31 March 2015) and £4,164,175 (31 March 2016). Very substantial sums were thus being received by IPORS in terms of premium, but instead of being paid over to XL were being transferred to the IPORS Business Account and onwards to Mr Corcoran where they were being used by him to make mortgage payments.

122. As I explained earlier, there is no evidence that Mr Corcoran had any source of income other than from IPORS from which he could make these mortgage payments. It is notable that once the Binders ended (and subject to receipt of premiums during a run-off period thereafter), the bank statements for Mr Corcoran's various accounts show nothing like the level of income he would need to make these mortgage payments.

123. On 11 March 2016 Mr Corcoran remortgaged 14 Moseley Road using a mortgage offset account. The statement for that account shows an initial draw-down on £529,278 to pay off the first mortgage followed a few days later by a further drawdown of £390,000 (which was paid immediately to HMRC) – the total borrowing was thus around £900,000, which appears likely to be the full value of the property at that time.

124. Some 18 monthly repayments of £6,907 were made between 1 April 2016 and 1 September 2017 totalling £124,326. As before, these payments from the PC Personal Account were preceded by transfers from the IPORS Business Account, save for the 1 August and 1 September 2017 payments which were made after the IPORS Business Account had been frozen and which were preceded by transfers from CPC.

125. By the time the first repayment was made on 1 April 2016 Mr Corcoran had received £4,634,039 into the PC Personal Account from the IPORS Business Account without which the PC Personal Account would have been overdrawn by £4,594,872. The cumulative variance as at 31 March 2016 was £4,164,175.

126. Mr Corcoran then continued between 25 October 2017 to 25 July 2018 to make some 10 further mortgage payments totalling £69,268, but these were not made from the PC Personal Account, which had by this stage been frozen, but from a sterling account he had set up at Coutts. The payments made from the Coutts account were funded either from:

i) A Euro premium account which Mr Corcoran had also set up at Coutts into which he started to receive premium (while the 2016 Binder was being run-off) after the NatWest and Ulster Bank premium accounts had been frozen, or

ii) A Nationwide account Mr Corcoran had set up around October 2017 and into which he engineered payment of a £313,000 refund from HMRC based on a payment on account he had previously made in February 2017 of £435,291 which had been funded by a prior transfer from the IPORS Office Account, or

iii) An account Mr Corcoran had set up at Lloyd's International in Jersey bank statements for which have not been disclosed but which seems to have been funded from the Coutts sterling account.

127. Other than by way of transfers from the premium accounts, there is no evidence of Mr Corcoran having any sources of income to make these mortgage payments. I note the sake of completeness that when Mr Corcoran opened the Monzo account under the name of Paul Clarke into which the rental income from 14 Moseley Road was paid he declared his income as only £60,000 per annum. The Monzo account was frozen in April 2021 and at the time had a credit balance of only £11,084.

128. A further account has been identified in the name of Paul Clarke with another online bank, Revolut, which seems to have been active from around 30 March 2020 until 25 August 2020 when it was frozen. It currently has a zero balance. The credit balances on the account were invariably very low, indicating once again that, once the wrongful transfers of premium funds from XL had been stopped, Mr Corcoran had no real income.

129. I am satisfied on the evidence that these three mortgages – the mortgage on Quarrymans View and the mortgage and remortgage on 14 Moseley Road - were taken out by Mr Corcoran in anticipation of him being able to pay them off using XL's premium funds, and that he did so.

(c) Conclusions in relation to 14 Moseley Road

130. I set out the principles applicable to tracing in paragraphs 72 and 108 above, including that:

i) When determining whether an interest in one asset is now represented by an interest in another a court is able to draw inferences as to the source of monies and the purpose of payments;

ii) The court is concerned with the substance of the matter and payments do not need to be in strict chronological sequence so long as it remains possible to trace substitutions in value; and

iii) Backwards tracing is permissible where a close causal and transactional link can be shown between the incurring of the debt for the purpose of

> acquiring property and its subsequent repayment with the claimant's money

131. Applying these principles to the evidence, I am satisfied that XL is able to trace its premium funds into 14 Moseley Road through the deposit, the mortgage payments paid in relation to Quarrymans View which also contributed to the payment of the purchase price, and through the mortgage payments on the initial mortgage and the remortgage on that property.

132. The total value of these payments is £551,879: the individual figures are set out in the paragraphs above. I am satisfied that XL is entitled to a declaration that it has a beneficial interest in the property and/or in the proceeds of sale in that amount, subject to satisfaction of NatWest's prior charge, and to consequential orders that properly reflect that interest.

J. Disposition

133. For the reasons set out above, XL is entitled to judgment against the First to Third Defendants and to the relief I have identified.

134. I will hear counsel in relation to the order(s) that should be made to reflect the terms of this judgment and in relation to any other consequential matters, including costs.

Appendix 1

Description	Reference	Year ending 31 March							Ratio to premium
		2013	2014	2015	2016	2017	2018	Total	
UK Business		£							%
Premiums									
Annual gross premium **(1)**	**A**	145,467	264,583	1,036,546	160,296	33,260	0	1,640,153	*100.00%*
Levy **(1)**	**B**	8,728	15,845	62,193	11,056	3,163	0	100,986	*6.16%*
Sub-total	**C = A + B**	154,195	280,428	1,098,739	171,352	36,424	0	1,741,138	*106.16%*
Less: Estimated brokerage deducted at source at 17.5%	**D = A x 17.5%**	(25,457)	(46,302)	(181,396)	(28,052)	(5,821)	0	(287,027)	*(17.50%)*
Estimated premiums and levies receivable by IPORS	**E = C + D**	128,739	234,126	917,344	143,300	30,603	0	1,454,111	*88.66%*
Bank receipts - Brokers and pay-in-slips									
Natwest 70821518 **(2)**	**F**	179,851	242,724	1,064,057	157,384	59,346	5,329	1,708,691	
Variance	**G = E - F**	(51,112)	(8,598)	(146,713)	(14,084)	(28,743)	(5,329)	(254,579)	
Add: Notional IPORS commission **(3)**	***Q = -G / (88.66%) x (20%+6.16%)***	*15,080*	*2,537*	*43,286*	*4,155*	*8,480*	*1,572*	*75,110*	
Variance net of IPORS notional commission	**R = G - Q**	**(36,032)**	**(6,061)**	**(103,428)**	**(9,928)**	**(20,263)**	**(3,757)**	**(179,469)**	
Cumulative variance net of notional IPORS commission	***SUM OF R***	*(36,032)*	*(42,093)*	*(145,521)*	*(155,450)*	*(175,712)*	*(179,469)*		
Payments to AXA XL									
Expected (per Bordereaux)	**H**	96,628	180,970	726,242	111,396	24,250	0	1,139,486	
Actual (per bank payments)	**I**	0	160,747	687,276	149,565	24,778	0	1,022,366	
Variance	**J = H - I**	**96,628**	**20,223**	**38,966**	**(38,169)**	**(528)**	**0**	**117,120**	
Cumulative variance	***SUM OF J***	*96,628*	*116,851*	*155,817*	*117,648*	*117,120*	*117,120*		
Total UK Variance (net of notional IPORS commission)	***K = J - R***	*132,660*	*26,284*	*142,394*	*(28,241)*	*19,735*	*3,757*	*296,589*	
Cum. UK Variance (net of notional IPORS commission)	***L = SUM OF J - SUM OF R***	*132,660*	*158,944*	*301,338*	*273,097*	*292,833*	*296,589*		

Description	Reference	Year ending 31 March 2013	2014	2015	2016	2017	2018	Total	Ratio to premium
EIRE Business		€							%
Premiums									
Annual gross premium **(1)**	**A**	2,617,705	6,098,155	8,626,268	9,224,755	4,575,089	0	31,141,971	*100.00%*
Levy **(1)**	**B**	130,885	304,908	431,314	461,240	228,747	0	1,557,095	*5.00%*
Sub-total	**C = A + B**	2,748,590	6,403,063	9,057,582	9,685,995	4,803,836	0	32,699,066	*105.00%*
Less: Estimated brokerage deducted at source at 17.5%	**D = A x 17.5%**	(458,098)	(1,067,177)	(1,509,597)	(1,614,332)	(800,641)	0	(5,449,845)	*(17.50%)*
Estimated premiums and levies receivable by IPORS	**E = C + D**	2,290,491	5,335,886	7,547,985	8,071,663	4,003,196	0	27,249,221	*87.50%*
Bank receipts - Brokers and pay-in-slips									
Natwest Euro NXNFSLM **(2)**	**F**	1,834,278	5,033,667	5,279,912	2,806,029	1,633,080	0	16,586,966	
Ulster 16267288 **(2)**	**G**	0	0	2,131,399	6,342,541	4,318,555	903,035	13,695,531	
Total bank receipts	**H = F + G**	**1,834,278**	**5,033,667**	**7,411,312**	**9,148,569**	**5,951,635**	**903,035**	**30,282,497**	
Variance	**I = E - H**	456,213	302,219	136,674	(1,076,906)	(1,948,440)	(903,035)	(3,033,276)	
Add: Notional IPORS commission **(3)**	***Q = -G / (87.50%) x (20%+5.00%)***	*(130,347)*	*(86,348)*	*(39,050)*	*307,687*	*556,697*	*258,010*	*866,650*	
Variance net of IPORS notional commission	**R = I - Q**	**325,867**	**215,871**	**97,624**	**(769,219)**	**(1,391,743)**	**(645,025)**	**(2,166,626)**	
Cum. UK Variance (net of notional IPORS commission)	***SUM OF R***	*325,867*	*541,737*	*639,361*	*(129,858)*	*(1,521,600)*	*(2,166,626)*		
Payments to AXA XL									
Expected (per Bordereaux)	**J**	1,701,901	4,100,603	5,822,732	6,226,712	3,088,178	0	20,940,125	
Less Actual:									
Natwest Euro NXNFSLM **(2)**	**K**	0	3,081,205	3,663,904	0	0	0	6,745,109	
Ulster 16267288 **(2)**	**L**		0	306,970	6,260,432	2,433,330	0	9,000,733	
Total Actual	**M = K + L**	0	3,081,205	3,970,874	6,260,432	2,433,330	0	15,745,842	
Variance	**N = J - M**	**1,701,901**	**1,019,398**	**1,851,858**	**(33,720)**	**654,848**	**0**	**5,194,283**	
Cumulative variance	***SUM OF N***	*1,701,901*	*2,721,299*	*4,573,156*	*4,539,436*	*5,194,283*	*5,194,283*		
Total EIRE Variance	***O = N - R***	*1,376,034*	*803,527*	*1,754,233*	*735,499*	*2,046,590*	*645,025*	*7,360,909*	
Total Cumulative EIRE Variance	***P = SUM OF N - SUM OF R***	*1,376,034*	*2,179,561*	*3,933,795*	*4,669,293*	*6,715,884*	*7,360,909*	-	
At assumed Exchange rate €1.2 to £1:		£							
Total EIRE Variance **(£)**		1,146,695	669,606	1,461,861	612,916	1,705,492	537,521	6,134,091	
Total Cumulative EIRE Variance **(£)**		1,146,695	1,816,301	3,278,162	3,891,078	5,596,570	6,134,091	-	

Description	Reference	Year ending 31 March							*Ratio to premium*
		2013	2014	2015	2016	2017	2018	Total	
UK and EIRE Business Combined		£							
Periodic UK and EIRE Variance **(£)**		1,279,355	695,890	1,604,255	584,675	1,725,227	541,278	6,430,680	
Total Cumulative UK and EIRE Variance **(£)**		1,279,355	1,975,245	3,579,500	4,164,175	5,889,402	6,430,680	-	