

IN THE HIGH COURT OF JUSTICE CLAIM NUMBER E30LV132  
BUSINESS AND PROPERT COURTS OF LIVERPOOL  
PROTERTY, TRUSTS AND PROBATE LISTING (ChD)

BEFORE [ ]  
[ ] APRIL 2018

BETWEEN

Marc Anton Paul Horn

Claimant

- and -

1. **Mr. Carl William Mills**, as agent of "the Seller": **Pinnacle Student Developments (Leeds) Limited** - Company Number 08513651 (**hereinafter PSDL**), acting as Director, and as the man; and, as agent of **MVG HOLDINGS LIMITED** - Company number 10394374 (**hereinafter MVG**), acting as Director, as agent of **MASON & VAUGHAN GROUP LTD** - Company number 08155816 (**hereinafter MVGL**) acting as Director, and as the man.
2. **Mr. Allan Freeman**, as agent of **PSDL**, acting as unnamed title , and as the man.
3. **Mr. Tony Freeman**, as agent of **PSDL**, acting as unnamed title , and as the man.
4. **Mr. Andrew Dixon**, as agent of **MVGL**, acting as Director, and as the man.
5. **Mr. David Roberts**, as agent of "the Company": **Pinnacle Student Buyers (Leeds) Limited** - Company Number 0892484 (**hereinafter PSBL**), acting as Director, and as the man; and as agent of **Wirral Solicitors Ltd** -Company number 07900448, acting as Director, and as the man.
6. **Mr. Michael Gubbay**, as agent of freehold title **Tuscola (105) Limited (hereinafter TL)**, acting as "authorised representative", and charge beneficiary from PSDL, and as the man;
7. **Mr. Simon Joseph Gubbay**, as agent of freehold title **Grangeford Asset Management Limited** - Company number 07355610 (**hereinafter GAM**), acting as Director, and as the man.
8. **Sol Levi**, as agent of freehold title **GAM**, acting as unnamed title, and as the man.
9. **Mr. Michael Patterson**, as agent of "the Management Company" **HOLLINBERRY ESTATES LIMITED**, and as the man.
10. **Mr. David Choules**, as "**the Supervisor**", agent of **URBAN STUDENT LIFE LIMITED (hereinafter USL)** and as the man..
11. **Mr. Andrew John Buchanan**, agent of **USL, acting as Director**, and as the man.
12. **Mr. Declan Lowey**, as agent of **USL, acting as Director**, and as the man.
13. **Mr. Nick Tellwright**, as agent of **USL, acting as Director**, and as the man.

Defendants

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Draft Order

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Upon Additional Evidence in Reply to Acknowledgement of Service presented on the 13 Apr 2018 at 10:08 by the claimant.

And Upon verbal confirmation given from the court to the claimant on the 20 April 2018 at or about 13:30 that no further Acknowledgements of Service had been submitted to the court.

And Upon verbal confirmation given from the court to the claimant on the 20 April 2018 at or about 13:30 that no further defences had been submitted to the court.

## **Defendants 1, 2, 3, 4, 6, 7 and 8**

**Upon** defendants 1, 2 and 3 being named trustees in the claimants Agreement for Sale (hereinafter AFS) dated 23 June 2014 to complete the construction of Austin Hall.

**And Upon** defendant 4 admitting to be the trustee of defendants 1, 2 and 3 on the 26 February 2016 as further clarified in "Additional Evidence in Reply to Acknowledgements of Service" and his actions as detailed in Annex 4 and Annex 15 of the Statement of Claim.

**And Upon** defendants 6, 7 and 8 admitting to be the trustee of defendants 1, 2, 3 and 4 in Land Registry Title number WYK463417, B: Proprietorship Register 4 (07.11.2016) The Transfer to the proprietor contains a covenant to **observe and perform the covenants referred to in the Charges Register** and of indemnity in respect thereof.  
5 (07.11.2016) The Transfer to the proprietor contains a covenant to **observe and perform the covenants by the landlord contained in the leases referred to in the Schedule of Notices of Leases** and of indemnity in respect thereof.

**And Upon** the issuance of the certificate of practical completion on the 31 August 2017.

**And Upon** the completion date being 10 days after the certificate of practical completion as specified in the AFS Contract Particulars 1.10.

**And Upon** the failure of the said defendants delivering the counterpart lease and the Management Agreement as specified in the AFS Exchange and Completion 3.1.4 without delay to the claimants solicitor.

**And Upon** the said defendants failing to provide the claimant with the building warranty as specified in the AFS Completion of the Works 8.5 Within 10 working days following the Date of Practical Completion.

**And Upon** the obligations to complete the undertaking of the said defendants to the specified standards for practical completion in the AFS Completion of the Works 8.3 to date.

### **IT IS ORDERED THAT**

1. Defendants 1, 2, 3, 4, 6, 7 and 8 complete the works to the specified standard within 30 days.
2. Issue a Certificate of Practical Completion within 3 days of completing the works.
3. Deliver the counterpart lease and the Management Agreement to the buyers solicitor within 3 days of issuing the Certificate of Practical Completion.

## **Defendant 5**

**Upon** defendant 5 releasing the Land Registry Legal charge in breach of the terms of the Legal Charge Operative Provisions 4. "As soon as the Developer has satisfied the Secured Obligations the Company will discharge the Charge at the Company's expense and remove the entries identical thereto at the Land Registry".

**And Upon** defendant 5 releasing the Companies House Legal Charge in breach of the terms of the Legal Charge Operative Provisions 4. "As soon as the Developer has satisfied the Secured Obligations the Company will discharge the Charge at the Company's expense and remove the entries identical thereto at the Land Registry".

**And Upon** the Secure Deposit Deed not being in accordance with the AFS.

### **IT IS ORDERED THAT:**

1. Defendant 5 retracts the DS1 dated 29 June 2016 and thereby reinstating the trust property being the Land Registry Legal Charge dated 9 April 2014 in time precedence over all other encumbrances on Land Registry Title number WYK463417.

2. Defendant 5 corrects retracts the MR05 filed 30 June 2016 and thereby reinstating the trust property being the Companies House Legal Charge dated 9 April 2014 in time precedence over all other encumbrances on the Companies House Charge Register of Pinnacle Student Developments (Leeds) Limited - Company Number 08513651

## **Defendants 10, 11, 12 and 13**

**Upon** the witness statement submitted by James Edward Roger Fownes dated 3 April 2018.

**And Upon** the said defendants witness statement confirming that the monies collected as letting agents are now held by Valeo USL Holdco Limited (which is effectively carrying on the business of USL under the USL brand).

**And Upon** the claimant being the settlor and beneficiary of the Agreement for Sale dated 23 June 2014.

**And Upon** the claimant not holding the lease at law.

**And Upon** the Senior Courts Act 1981 49 (1) confirming that Equity prevails at Law in the event of conflict confirming the claimant as the beneficiary of the rental income.

**And Upon** the said defendants claiming the reason for not releasing the monies was a dispute between the beneficiaries and their contractual relationship with Defendant 9.

**And Upon** the Senior Courts Act 1981 49 (1) confirming that Equity prevails at Law in the event of conflict confirming the claimant as the beneficiary and not defendant 9.

**And Upon** the said defendants admitting that the beneficiaries unit has been let since the 16 September 2017.

**IT IS ORDERED THAT**

1. The said defendants within 7 days pay the claimant all rental income received from the rental of Unit 609 Austin Hall.

2. Defendants 1, 2, 3, 4, 6, 7 and 8 make up the Assured rent difference should there be any in accordance with the Management Agreement 10.3.

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Defendants