



Work and Pensions Committee & Business Innovation and Skills Committee

Oral evidence: The sale and Acquisition of BHS HC 55

Tuesday 7 June 2016

Ordered by the House of Commons to be published on 7 June 2016.

[Watch the meeting](#)

Members present: Rt Hon Frank Field (Chair), Mr Iain Wright (Chair), Richard Fuller, Richard Graham, Craig Mackinlay, Amanda Milling, Jeremy Quin, Amanda Solloway, Michelle Thomson

Questions 911 - 1133

Examination of Witnesses

Witness: **Robin Saunders**, Managing Partner of Clearbrook Capital Partners LLP, gave evidence.

Q911 Chair: Ms Saunders, thank you very much for attending. We are very grateful. For the purposes of the record, could you tell us who you are and in what capacity you are before us? What are you going to speak to us about?

Robin Saunders: I have been asked to speak to you about my relationship with Sir Philip and my interaction with Paul Sutton.

Q912 Chair: I will start with that, if I may. What is the relationship between yourself and Philip Green? How far back does it go? What is the current status?

Robin Saunders: Would it be helpful just to describe who I am, to put it in context?

Chair: Yes, please.

Robin Saunders: My name is Robin Saunders. I have a private investment firm called Clearbrook Capital. I graduated with a degree in finance in 1984 from Florida State University. I worked at a number of financial institutions in my career, rising through the ranks and holding various management positions. In 1999 I was with a bank called Westdeutsche Landesbank. That was a state-owned German bank with about €330 million of assets. I ran a group that was called asset securitisation and principal finance.

That is the period in which I met Sir Philip. We looked at a transaction together in the fall of 1999 that did not go forward and then in early 2000 my institution arranged the financing for the acquisition of BHS.

Q913 Chair: You received equity as a result of that. Is that correct?

Robin Saunders: I did, as did the bank. WestLB and Barclays co-led that financing of £200 million.

Q914 Chair: Did you lead on that project?

Robin Saunders: Yes, together with Chris Coles from Barclays.

Q915 Chair: Is it common that people who lead on projects on behalf of financiers receive equity investments? Is that what would normally happen?

Robin Saunders: It was not unusual for a private equity style transaction for a leader of a principal-styled investment—and it was a highly leveraged transaction. It was not unprecedented that a transactor would receive a small equity stake.

Q916 Chair: Could I ask about dividends from BHS? You received dividends in the period 2002 to 2004. Is that correct?

Robin Saunders: Correct.

Q917 Chair: At that time, dividends were exceeding operating profit. Did you ever raise concerns about that? Did you consider that unusual or perhaps posing a risk to long-term financial viability?

Robin Saunders: As in normal corporate governance, you cannot issue a dividend without significant or sufficient distributable reserves, which the company had in each of those years.

Q918 Chair: Essentially the loan was taken out to cover the dividend, was it not? It was not a dividend in the strictest possible sense.

Robin Saunders: Yes. The company was extremely cash-generative and in its own right it was an extremely well run company. The margins were fantastic. I have absolutely no criticism of the way the company was run and the way the cash was managed in the company.

Q919 Chair: How and when did you meet Paul Sutton?

Robin Saunders: I met Paul Sutton in very late January of 2013. He, like many entrepreneurs who come to my firm, had myriad transactions he wanted to discuss. They were very exploratory potential transactions. He mentioned in that period that he was also interested in buying a retail platform.

Q920 Chair: Do you get lots of contacts? How do you weed them out? How did you see, if I am using the right term here, that Paul Sutton was legit?

Robin Saunders: As a normal course, if we have a couple of conversations with any person that we do not know, we do a desktop search, we speak to our contacts in the marketplace and we do an internet search. Nothing rose to the surface that would alert us to any problems with Mr Sutton. We continued with very casual discussions on a few subjects for a couple of months. Had we been engaged, I should emphasise, as would be the case for any regulated firm, we would be carrying out full legal diligence on the principals of that transaction. We never got to that stage. That is basically how we met.

Q921 Chair: That was in January 2013?

Robin Saunders: Correct.

Q922 Chair: What happened subsequent to that?

Robin Saunders: A few months later, I met with Sir Philip and he mentioned that he would like to sell BHS, to focus more on Arcadia, I guess—I might be surmising that—and I said, “I have recently met an entrepreneur who I am told has sufficient capital to do large acquisitions. Perhaps you want to meet him”. He said, “All right, let’s do that”. I arranged a meeting between the two of them, Sir Philip and Mr Sutton, in mid-April of 2013.

Q923 Chair: You introduced Sir Philip Green to Paul Sutton?

Robin Saunders: I did. Correct.

Q924 Chair: To the best of your knowledge, they had not met beforehand?

Robin Saunders: Correct.

Q925 Chair: All right. Did you work up Project Albion?

Robin Saunders: No.

Q926 Chair: You look like you do not know what Project Albion is.

Robin Saunders: I remember the name from Mr Sutton’s bid, yes. I did not work it up, no.

Q927 Chair: When did the involvement with Paul Sutton come to an end?

Robin Saunders: In late June, early July 2013.

Q928 Chair: Why was that?

Robin Saunders: As we were exploring various potential projects, as we do, we looked at hundreds of transactions and we looked at a few with Mr Sutton and other people that we met in that time period. None of them were coming to fruition. Sir Philip gave me a call, having introduced them. I do not think I attended any other meeting apart from the first

one with the two of them. Sir Philip gave me a call and he said, “This is not going to happen”.

Q929 Chair: When was that call?

Robin Saunders: I believe it was in late June of 2013 because by mid-July of 2013 there was no further correspondence with Mr Sutton. My colleagues and I were checking our e-mails over the weekend and we could not find anything after that with Mr Sutton.

Q930 Chair: It had all come to an end by that point?

Robin Saunders: Correct.

Q931 Frank Field: Robin, can I ask you about Sir Philip? It seems to me that you were the agent that took him from where he was to the premier division. He became a very big player. Do I describe your role accurately?

Robin Saunders: I worked for a state-owned bank, as I mentioned, and I could do nothing without the support of the credit committee, the board and so on, so I do not think I can take credit for anything like that. As an institution, we were very supportive of Sir Philip.

Q932 Frank Field: It is just it seems to me that he entered the big division when he got BHS and then it opened the door to others. He was, in a sense, on the national stage, where he was not before. I wondered if you might tell us a bit more. How did you meet Sir Philip?

Robin Saunders: Gosh, this is a long time ago. We were introduced by mutual friends in 1999 and he had just completed the Sears transaction. I was very impressed by that. I do not remember much about it now but I remember thinking, “What an innovative transaction”. He made a remarkable amount of money for the investors in that transaction in a remarkably short period of time.

Q933 Frank Field: On that point, why was it innovative?

Robin Saunders: I just had not seen anyone do that sort of transaction. It was innovative to me, let's put it that way.

Q934 Frank Field: Innovative in what way: the returns or in some other way, the legal structure through which all this operated?

Chair: Or the financial engineering to gear things up? What was going on?

Robin Saunders: I think it was a financial engineering transaction and at the time, I was more focused on financial engineering. As I got to know him through exploring the first transaction, which was aborted, in 1999, I was very impressed with his capabilities in running a retail operation and in structuring a transaction and then, after BHS was acquired as well, the level of detail in running the company, improving its margins and such.

Q935 Frank Field: Do you not think, Robin, you are downplaying your role? Although the bank in fact had to decide, they really decided on what you recommended. You were a trusted person by the bank, with huge resources, looking for investments.

Robin Saunders: Yes.

Frank Field: Presumably you recommended that this was somebody to back because you were impressed by these other matters. He then emerges on to the national stage, in my frame of reference. You were key for him. When did you last speak to him?

Robin Saunders: I have obviously spoken to him recently in the context of these proceedings but usually we do not speak more than a few times a year.

Q936 Frank Field: On the people who were interested in taking BHS off his hands, we have Paul Sutton, have we not, as one person, and we have Mr Chappell as well. Did you know Mr Chappell, however it is pronounced?

Robin Saunders: I do not know how it is pronounced and I do not know Mr Chappell. I had never heard of him until I read about it in the press in whenever it was, May 2015.

Frank Field: Thank you.

Q937 Richard Fuller: Ms Saunders, you have a very strong reputation in the City and I would like, in a minute, to ask you some more general questions about securitisation, but can I ask you some more precise questions, first of all? You mentioned an equity stake that you personally received at the time of the transaction. Approximately what was the value of that equity stake?

Robin Saunders: At which point?

Richard Fuller: When you were given it.

Robin Saunders: It was a highly leveraged transaction and I paid for that stake. Maybe it helps to put it in perspective.

Richard Fuller: Yes, please.

Robin Saunders: My group within WestLB did a number of similar transactions and we always bought equity in the companies that we “principal financed”. Principal finance for us was defined as a transaction where we would be lending more than a normal leveraged buyout. WestLB was participating in the equity upside of that acquisition.

Q938 Richard Fuller: Essentially you were like a GP in a sponsored PE fund.

Robin Saunders: Yes.

Q939 Richard Fuller: You mentioned you co-led it with Chris Coles at Barclays. Did Mr Coles get a similar opportunity to invest, as far as you are aware? Did he get that?

Robin Saunders: Barclays certainly did. I do not know if Mr Coles did.

Q940 Richard Fuller: You said you met with Paul Sutton in late January 2013, you did a desktop search and nothing came up. When were you aware that he was a convicted fraudster?

Robin Saunders: Again, I have been trying to refresh my memory on this because we never progressed to the stage of being engaged by anybody in this transaction. I think it was late June that we discovered that there were significant issues to be addressed. In any case, Sir Philip called me and said he was not going to be proceeding with Mr Sutton.

Q941 Richard Fuller: In December of 2012, a 25% stake in Topshop was acquired by Leonard Green.

Robin Saunders: Yes.

Richard Fuller: In your conversations with Philip Green, was that ever part of the decisions to sell interest in British Home Stores.

Robin Saunders: Not at all.

Q942 Richard Fuller: Can I ask you some questions about securitisation?

Robin Saunders: Sure.

Richard Fuller: You have built a reputation based upon the principle of buying cheap funds and sweating the assets, making company assets more productive and working effectively. What sorts of things are you looking for when you make those sorts of investments?

Robin Saunders: Even though the securitisation market, as was, does not exist today, we still look for similar assets—you will appreciate this—that are underpinned by real estate or intellectual property, which lend themselves to a predictable income stream. It does not always work out like that, obviously, but if you are starting from the perspective that the company has a portfolio of real estate or intellectual property or something that has attached to it an income stream, that income stream is put into a special purpose company and that income stream goes to pay the bondholders, who are looking for a better return than a government bond or a corporate bond.

There is that little bit more complexity related to the income stream coming from an operating company that owns real estate into a special purpose company and on to the bondholders, and they demand a premium. The securitisation principaling crowd will always look for that, companies that are underpinned by those assets and a predictable income stream.

Q943 Richard Fuller: When you put lots of debt into companies like that and you sweat the assets, ultimately there is a return to the people who provided the debt but the super-return goes to those who have the equity in the business that sits under that debt.

Robin Saunders: Correct.

Richard Fuller: What is of interest to me is that if things go wrong then what is the difference, when you look back, between asset sweating and asset stripping? That is taking out resources from a company because you have put on too much leverage, put too much

pressure on those predictable cash flows and are selling off assets. Can you give some comfort to people who now look back at British Home Stores and say, “It does not look like they were sweating the assets, it looks like they were taking out resources that were needed later on”?

Robin Saunders: I do not agree with that completely because the company, at least in my tenure there, was very profitable and could very easily service the debt that was put in place. For anybody who was paying attention to the financial markets at that time, it was very normal for a leveraged buyout to see leverage of seven, eight or nine times earnings before interest and taxes. That deal was much less. It was about six times interest before interest and taxes at the point of acquisition and by 2001, the profitability had improved so much the debt was worth two times earnings before interest and taxes.

It was never the subject of asset stripping, definitely not. It was a very profitable company in the period between 2001 and 2004. I have not really tracked it, to be fair, since then.

Q944 Richard Fuller: Subsequently, obviously you will have seen from the news that the business got to a point where there was a substantial amount of annual losses, in the range of £60 million or £70 million per year. That beautiful period of profitability had transformed into a period of horrible losses. There was a mountain of deficit on the pension fund for the employees who had given good service to the company, caused by a variety of factors. Then, when you looked back to where the money would be to help with those things, the money was not there. What would you say to people who look at that and say, “It is all right, Ms Saunders, for your perspective on the year 2004 but ours goes all the way to now”?

Robin Saunders: That is an excellent question. It demonstrates a problem in the system, that pensions are run separately from corporate boards. There is a pension trustee committee to run pensions and there is a corporate board to run corporates and the two do not interact enough. As a common theme in corporate governance, they do not interact enough. You see it everywhere. Now we are starting to see the fallout from that. In relation to BHS in particular, I was not following the management and I was not in close contact with Sir Philip during that period but I will say that I am sure they were hurt like every other High Street retailer in 2008, 2009, 2010 and so on. They lost their way with regard to product offering to their target market and they probably lost their way on online marketing. It is unfortunate, for sure.

Q945 Frank Field: Maybe the directors seem to have lost the message but a large amount of money went out of this company. That did not seem to lose its way, did it?

Robin Saunders: How long should shareholders wait to benefit from distributable reserves? If we could reinvent the interaction between pension fund trustees and corporate boards, we would do that. I think we will see that going forward.

Q946 Frank Field: The model you were presenting is that somehow it is all going hunky dory and then people sort of lost their way. The one thing in this story that did not lose its way was the money. The money went to the Green family, did it not, from the whole group of companies? Richard has been talking about sweating a company. The sweating resulted in very substantial sums moving from a network of companies to Lady Green’s company.

Robin Saunders: Of course.

Frank Field: There was no losing the way there.

Robin Saunders: This is just my personal opinion, but do not think that paying dividends from a company that has large distributable reserves is the wrong thing. I do not think that is inappropriate.

Q947 Richard Fuller: Ms Saunders, you have a bigger responsibility than that given your role. Your role and your expertise is with unusually high amounts of leverage, putting unusually high amounts of strain on assets, which in good times can end up in a situation where there is money in distributable reserves and a decision could be made to take it out of the company. Then, later on, the company is threadbare. The quid pro quo of making super returns in periods where it is good and the sun is shining is that you are there to support the company when it is not in such good times, is it not, or does your responsibility just end when the going gets tough? Shareholders. I am sorry, I should not say “you”. I meant shareholders.

Robin Saunders: Can I put this in context with regard to my specific role in this scenario? The debt that was provided by my institution to British Home Stores was completely repaid in 2003.

Q948 Richard Fuller: I am talking from your point of view. You have built a reputation based on the provision of very large amounts of debt into companies. I am not asking about the responsibility between yourself and WestLB, which I understand clearly and which worked very well. My point is from your perspective on what you do to the companies. You made the point in response to Mr Field that at a time when things were going well, debt could be repaid and you could distribute money out of reserves. However, in scenarios like that, when the going gets tough it appears you feel that there is no responsibility on those who sweated the assets, took the money out and left the cupboard bare. I am trying to ask whether you think there is a responsibility that goes beyond the deal.

Robin Saunders: Of course. Anyone on a board is responsible for all stakeholders, the employees and everyone; all stakeholders. That is corporate governance. I was not on the board in a period when BHS was losing money and had a mounting pension deficit so I cannot opine. I did not have that information and I did not have that scenario myself.

Q949 Chair: When were you on the board?

Robin Saunders: From November 2000 to September 2003.

Q950 Chair: I am curious as to how I get a foot in the door at your office. You must get asked all the time. I tried to push you on this earlier on. As I recall, you said that Paul Sutton got in touch in about January and then you found about his background in June. I am still uncertain as to how he got in the door of your office, given his background. Does nobody Google anything in your office?

Robin Saunders: Yes, of course. We did and there were a couple of disputes that he was having with two businessmen in London but—

Chair: Nothing to flag up a major concern?

Robin Saunders: No, absolutely not. If we had known, I think we would have made different choices.

Q951 Jeremy Quin: Chairman, I should say that Robin and I have met in the past and I respect her professional capacities. Robin, how would you describe the corporate governance of BHS when you joined it?

Robin Saunders: I joined the board in November. The acquisition was made in May. I thought it was extremely professionally run.

Q952 Jeremy Quin: Was there a chairman, non-executive directors? How was it organised?

Robin Saunders: There was Allan Leighton, Terry Green, Sir Philip, myself, Chris Coles and two members of staff, Ian Alkins and Paul Coackley. I think that was the full board.

Q953 Jeremy Quin: How did that evolve over time? Clearly from your description the company is going well. Was there an informal aspect to the board deliberations? How would you characterise it?

Robin Saunders: I would say it was an extremely professionally run board.

Q954 Jeremy Quin: Thank you. You discussed the profitability in those years. What in your view was the magic that turned BHS around in that period and delivered that high degree of cash flow?

Robin Saunders: Primarily cost-cutting. Cost-cutting was a key driver. The joke was that everyone would have to use their pencils down to the nub before they could be thrown out. There were larger things. There were many suppliers of denim and they would be consolidated so that it was a cost-plus contract, things of that nature; a typical buyout improvement of operating performance.

Q955 Jeremy Quin: I appreciate that is an entirely legitimate way to enhance profitability but in your experience would you not say that that often gets to a situation where you take out a certain level of cost and that is not sustainable for the long term? You can take out a level of cost and there will be a step up in the profitability of the firm. First of all that, and then I do have a follow-on.

Robin Saunders: Is cost-cutting sustainable? Controlling cost is certainly sustainable. Then, of course, you are looking for revenue growth.

Q956 Jeremy Quin: There is cost-cutting ongoing and the benefit of that cost-cutting went out in the form of dividends and the early repayment of the WestLB loan. There may be concerns that the balance between investment in the business and the repayment of debt or the payment of dividends was inappropriate. Would you have any comments on that?

Robin Saunders: Not from my perspective.

Q957 Jeremy Quin: Understood. Just lastly, fairly shortly after you left the board there was a capital reconstruction. There was a large dividend payout at that stage. Was that being discussed as a natural progression or did that not really occur in boardroom discussions when you were still on the board?

Robin Saunders: I do not recall discussing that. I am sorry.

Jeremy Quin: That is very kind. Thank you very much, Robin.

Q958 Chair: Can I get your insight as to why you think there was no revenue growth in this period of, frankly, large consumer boom times, really?

Robin Saunders: I am sorry, I have not focused on that in the last couple of days but I would be delighted to have a look.

Q959 Chair: From recollection of the accounts, looking back from 2000, 2001, I think you are right in your analysis that costs were cut and supplier concessions were squeezed, but revenue growth essentially was flat. I am just wondering why that was the case at the time of a long-term consumer boom. BHS was a failure in that regard, was it not?

Robin Saunders: I apologise, I am not familiar—I remember there was some revenue growth. It was not huge but there was. I would have to refresh my memory. I apologise.

Q960 Chair: From your recollection, would this be the sort of thing you would be discussing on the board, why revenue growth may not be improving in the way some of your peers on the High Street would have been enjoying?

Robin Saunders: Yes, we would have discussed that.

Q961 Chair: What would have been the findings of that? Can you recall that?

Robin Saunders: I could talk to you all for days about that because I found it amazing how much detail was embedded in that management team about 100,000 purple jumpers. It was an incredible level of detail, to work on that very point of improving sales.

Chair: It did not, unfortunately, work. Thank you.

Q962 Richard Graham: Ms Saunders, can we go back to the year 2000 when you were involved in the takeover deal at BHS? At that time, you said that WestLB and yourself both had an equity stake in BHS. Is that correct?

Robin Saunders: Correct.

Q963 Richard Graham: You remained on the board until 2003. For how long did you remain a shareholder?

Robin Saunders: Until my shares were sold in 2009, along with the other non-Green family shareholders. I believe everyone sold at the same time in 2009.

Q964 Richard Graham: Thank you. We will come back to that in one second. WestLB were repaid the loan and, therefore, did not have a financial involvement themselves after 2003. Is that correct?

Robin Saunders: No, they also had warrants in BHS for having supplied that principal-styled financing at the acquisition.

Q965 Richard Graham: What happened to them? Did they convert into equity?

Robin Saunders: I assume they did but I parted company with WestLB and I do not know what they did with their stake.

Q966 Richard Graham: At that time, you said earlier that WestLB, which as far as I remember was certainly then a wholly owned Germany provincial government entity, was entirely relaxed about the fact that members of the principal finance unit had equity themselves in companies where you were arranging financial support of WestLB. Is that correct?

Robin Saunders: Yes.

Q967 Richard Graham: Then at some point during 2003 what happened between you and WestLB that you left the company?

Robin Saunders: In 2003 a transaction went sour and they had just committed quite a large sum of capital to my team. When that transaction went sour, unrelated to this of course, they decided not to be engaged in principal finance and I wanted to continue to be engaged in principal finance and I left the bank.

Q968 Richard Graham: That was to do with the refinancing in June 2002 of Boxclever, was it?

Robin Saunders: Yes.

Q969 Richard Graham: Did they fire you?

Robin Saunders: No.

Q970 Richard Graham: But they did not continue with the principal finance unit—

Robin Saunders: Correct.

Richard Graham: —because that had cost the bank, and therefore the state government, a large sum of money?

Robin Saunders: We can debate how much it cost them.

Q971 Richard Graham: But after that they never again engaged in principal finance where members of their team, their employees, were taking equity stakes in companies to which the provincial government was exposed by lending money. Correct?

Robin Saunders: I have no idea. I don't know what their policy was thereafter.

Q972 Richard Graham: How would you react to the inference that your activities at Boxclever had damaged WestLB's balance sheet and the provincial government's reputation and that it was, therefore, essential for them to part company with both you and the principal finance unit?

Robin Saunders: I am sorry, can you repeat that?

Richard Graham: How would you respond to the inference that your activities at Boxclever had damaged WestLB's balance sheet, and by implication the provincial government's reputation, and that is why they decided to cease the principal finance unit and close it down?

Robin Saunders: I think that transaction led to the closure of that activity. Yes, I do.

Q973 Richard Graham: During the time you were a shareholder of BHS, as against when you were a director, of course was the time that the company's situation changed from the relatively rosy situation that you have described from 2000 to 2003. In 2005 in particular the company issued a huge dividend and for the first time its assets turned from positive to negative on the balance sheet; they never recovered. How much did you receive in 2005 from the dividend?

Robin Saunders: I would need to check that.

Q974 Richard Graham: Is it true that in 2002 you received £1.75 million from dividends?

Robin Saunders: That sounds approximate—I had 0.5% of the company.

Q975 Richard Graham: In 2005 when the dividend was much greater than it was in 2002, you would, therefore, have received a much greater dividend.

Robin Saunders: 0.5%.

Richard Graham: So, £3 million, £4 million perhaps? That was the year when the balance sheet effectively went negative for the first time. What did you feel about that? This was a company of some 11,000 workers and some 20,000 pensioners. Did you feel at that stage that the deal that you had put together was going sour while you were still benefiting as a shareholder?

Robin Saunders: I was not aware of that fact at the time and I do not recall having that discussion. I do not remember being told those facts. I had not been involved with the company since September 2003.

Q976 Richard Graham: What happened to your relationship with Philip Green during the period between you left as a director and when you introduced him to Mr Sutton?

Robin Saunders: We had limited contact in those years, apart from the sale of the shares in 2009, as I mentioned, but we would bump into each other at City functions.

Q977 Richard Graham: Who originated the search for people who might be interested in buying BHS? Was that your initiative or his request?

Robin Saunders: That discussion was really very casual. We were having a short catch-up and he mentioned casually that he would be looking for someone to buy BHS. I said casually, “I have met someone recently who might fit the bill. He allegedly has capital to do this. Would you like to meet him?” He said, “If he checks out, great, then let’s meet him”.

Q978 Richard Graham: What made you imagine that Mr Sutton was someone who would be appropriate to buy BHS?

Robin Saunders: I was under the impression that he had capital and enormous deal experience. He is quite a charismatic character and I had the impression he could do it.

Q979 Richard Graham: Did you know at that time that he had gone bankrupt in 1982 and spent a decade not being discharged because of non-compliance with insolvency rules and then in 2000 again he was made bankrupt in a French court over a property deal and that he left a trail of other people to whom he owed large sums of money as well?

Robin Saunders: Unfortunately none of that was in the public domain. When we did our initial desktop search about him and market soundings, we could find nothing about those two things, apart from two disputes that he was having with London property participants and that happens to many people in business. There were no alarm bells at that point and, as I mentioned earlier, had we moved to a formal engagement with him to consult, advise, we would have done a full legal check. The cost of that sort of check is about £100,000 and so we leave that to a stage when we are about to sign an engagement letter to provide our regulated services for that principal.

Q980 Richard Graham: Who else did you recommend to Philip Green?

Robin Saunders: No one.

Q981 Richard Graham: Purely Mr Sutton?

Robin Saunders: Yes.

Q982 Richard Graham: The eventually discharged bankrupt was the only person you recommended to him as an appropriate potential buyer of BHS?

Robin Saunders: I was not hired by Sir Philip to run an auction for BHS.

Q983 Richard Graham: It was your own initiative?

Robin Saunders: I was not hired by anyone. I simply made an introduction.

Q984 Amanda Milling: When you were looking at the potential sale of BHS to Paul Sutton, what were your observations of what was going to be required to turn this business around?

Robin Saunders: My personal observations? That is a good question. Capital and a management team with experience in a turnaround and, as I recall, Mr Sutton was bringing a management team from Switzerland and he had those people who were experts in turnarounds.

Q985 Chair: I am going to be incredibly rude and interrupt Amanda. I do apologise. I know that you have not done a great amount of work on this because you had not been tasked with finding and carrying out an auction, but you did not think that the existing management of BHS was a turnaround team?

Robin Saunders: I caught in the press as a casual observer that there were new people coming and going and I surmised that since the losses were continuing that that team were not able to turn it around.

Chair: Thank you. Sorry to interrupt, Amanda.

Q986 Amanda Milling: Picking up on the other point you made, which was about capital: how much capital did you think was needed to go into this?

Robin Saunders: I am looking at this purely from my own experience in business as opposed to this particular situation. If a company is losing tens of millions of pounds, things are going to have to change and an allocation of capital to either reduce the assets and/or increase marketing. There is myriad things that a management team can do to reverse the plight of a failing company. But I have never had a detailed look at BHS so I do not know what the extent of the problems were at the time. I just knew that it was losing quite a lot of money and it would need capital.

Q987 Amanda Milling: Did you think £55 million was going to be sufficient?

Robin Saunders: I don't know the facts well enough to know what the number would be, to be fair, I am sorry. If we had done a thorough investigation I might be able to give you some more helpful feedback.

Q988 Craig Mackinlay: Just going back, Ms Saunders, when you sold the shares in 2009 there was the sale to Taveta 2 Investments. That was a creditors' approval for a share reorganisation or the proceeds were satisfied by an issue of some shares to Taveta Investments. You did not get shares in Taveta, I assume. You were part of the cash side of that deal. Is that correct?

Robin Saunders: Correct.

Q989 Craig Mackinlay: £2.3 billion was the value of new shares issued, so your share of that would have been about £11.5 million. Is that about right?

Robin Saunders: No, no, definitely not.

Q990 Craig Mackinlay: Perhaps you can explain what your take on that was.

Robin Saunders: If I may, I would like to come back on the 2005 dividend. I have not looked at these numbers recently but I believe that my shares were sold for about £800,000, the 0.5%.

Q991 Craig Mackinlay: We saw this figure of £2.3 billion as the new shares issued, which would make the 100% worth £2.3 billion or 0.5% seems to me to be £11.5 million. I am not quite sure how that—did you look at that deal in any detail?

Robin Saunders: I did not.

Q992 Craig Mackinlay: Even though it was close to £1 million that you were going to receive out of this? There must have been a passing interest in £800,000 or £1 million or whatever landing in your bank account, or was it just too small fry to be worried about?

Robin Saunders: No, that is definitely not the case, but the shares that I held were non-voting and it was beneficial interest and shares held by Tina Green. I had absolutely zero negotiating power in relation to the value of the shares or anything, so it was a short conversation.

Craig Mackinlay: That is fine. Thank you.

Q993 Chair: Robin, in terms of the regular catch-ups that you might have with Sir Philip Green, whether it is over coffee or whatever, can you recall in the first half of 2014 did you have catch-ups with Sir Philip?

Robin Saunders: I may have run into him at a *Sunday Times* party or something but, no, I can't remember any.

Q994 Chair: I am just curious. We have been told that Sir Philip arranged to meet Paul Sutton in May 2014. You said that it had come to an end in June 2013. I would have thought that would have been a good topic of conversation. Was it?

Robin Saunders: Yes.

Chair: That came up, did it?

Robin Saunders: I would like to be very clear on this point. Every time I saw Sir Philip after the phone call in late June 2013 he reminded me that he was not in contact with Paul Sutton.

Q995 Frank Field: Could I go back to that most recent conversation with Sir Philip, Robin? When was it?

Robin Saunders: I am sorry, which conversation?

Frank Field: You talked about a recent conversation with Sir Philip. When was it? How recent?

Robin Saunders: Today.

Q996 Frank Field: Today, right. Did you phone him or did he phone you?
Robin Saunders: I phoned him.

Q997 Frank Field: May I ask what did you talk about?
Robin Saunders: He said, “I understand that you are going to the Committee. Good luck”.

Q998 Frank Field: That was it?
Robin Saunders: Yes.

Q999 Frank Field: When was the conversation before? That was obviously the last one if it was today. When was the one before, Robin?
Robin Saunders: Several days ago.

Q1000 Frank Field: Was it about these hearings?
Robin Saunders: Yes. I don’t know the person who bought BHS so I was not sure how helpful I could be, but hopefully it has been helpful to you.

Q1001 Frank Field: Did he phone you or did you phone him on the second to last occasion?
Robin Saunders: Normally communicating with Sir Philip—which as I say is not very often but because of these proceedings we have been in touch more recently—he will phone on an unknown number, in which case I don’t normally answer unknown numbers.

Q1002 Chair: Could you possibly drop us a line on that, in terms of the nature of what was said? We are going to have to go and vote, I am afraid. With your permission, colleagues, I am going to suspend the session for 15 minutes. Thank you very much for your evidence and, on behalf of the Committee, can I wish you a very happy birthday for tomorrow.
Robin Saunders: Thank you.

Sitting suspended for a Division in the House.

On resuming—

Examination of Witnesses

Witnesses: **Nicolas Giauque**, Managing Member: London, Farallon Capital LLP, and **Joseph Dryer**, Capital Markets and Advisory, RiverRock, gave evidence.

Q1003 Chair: The session is reconvened. Apologies for that, gentlemen. For the purpose of the record, do you mind telling us who you are and which organisation you represent?

Nicolas Giauque: I am Nicolas Giauque and I work for Farallon Capital Europe. We are the European arm of Farallon Capital, which is based in San Francisco. We have been around for 30 years and we are a fund management firm.

Joseph Dryer: My name is Joseph Dryer and I head up the advisory and capital markets group within RiverRock. RiverRock is an investment management firm based here in London, with offices in Paris and Milan. We primarily invest in mid cap corporates across Europe as well as in real estate. We have a broker-dealer licence here in the UK and obviously my investment banking business.

Q1004 Chair: Joseph, may I start with you, although this is a question to both of you gentlemen? How did you come to work with Dominic Chappell, Swiss Rock?

Joseph Dryer: Dominic Chappell was introduced to us through a third-party consultant to RiverRock, Mr Lennart Henningson. My understanding is that Lennart had a longstanding personal relationship with Mr Chappell and he introduced us to Mr Chappell and to the opportunity that we, for a very short period of time—

Q1005 Chair: What is his background?

Joseph Dryer: Lennart was not part of my group, he was a consultant to the RiverRock securities business, but my understanding is he had been a banker. He had done a number of transactions, raised capital, closed a few deals in Scandinavia. He was based and domiciled in Stockholm. Most of his business career was in Scandinavia with a few transactions done in Europe.

Q1006 Chair: What did he say to you in relation to Dominic Chappell? What was the tone of the conversation? Did he say, “This is a person. We could do a good deal here”? What happened?

Joseph Dryer: When he was originally introduced to us, he vouched for him quite strongly, from both a professional and personal perspective. He was introduced to us that Mr Chappell was bringing a transaction that had been largely agreed with Sir Philip and that he was looking for an investment bank to advise him on the transaction and to help raise capital.

Q1007 Chair: Did you push him on what “largely agreed” actually meant?

Joseph Dryer: Absolutely.

Q1008 Chair: What was the status of it?

Joseph Dryer: The basis of our engagement with Mr Chappell, once he had cleared our KYC, was entirely upon the understanding and his assertion that a deal had been agreed between himself and Sir Philip. He advised not only us but his other advisers, and obviously his board, that the deal was that he would be acquiring BHS for £1, that it would

be coming to him debt free and pension free, and that the pension liability would be completely covered prior to Swiss Rock's acquisition of BHS.

Q1009 Frank Field: Who would cover the pension liability?

Joseph Dryer: We understood that it was Sir Philip or coming from an area of Sir Philip. That was the transaction that was repeated to us on a regular basis.

Q1010 Chair: To clarify, Dominic Chappell had said to you, "This is coming to me for £1. It is debt free and there is no pension scheme liability because Philip Green is handling this"?

Joseph Dryer: That is absolutely correct.

Q1011 Chair: What sort of checks and due diligence did you do with regards to that? How far down the line did you go?

Joseph Dryer: We did our standard KYC. You are obviously asking were we aware of his previous bankruptcy. The answer is yes, but at the time he completed KYC and he was completely solvent. Upon our engagement, which was for a very brief period, along with the engagement of other internationally recognised advisers—which was a precondition of RiverRock being engaged, that there would be leading recognised international advisers on both sides—we were advised that Linklaters would be acting for Sir Philip and that Goldman Sachs would be acting for Sir Philip. Then in the period that we were engaged we embarked on a verification and validation exercise to establish that the deal as it had been presented to us was valid. Our role as an adviser would be to advise him on executing the transaction and raising capital for the transaction.

Q1012 Frank Field: Did you ring Sir Philip and say, "Are you covering the pension?"

Joseph Dryer: No.

Q1013 Chair: How credible did Dominic Chappell sound? This was a man who had no retail experience whatsoever. Was that not a risk for you?

Joseph Dryer: We were aware of his weaknesses in his retail experience, the lack of any senior retail team. However, he led us to believe that once our proposal had been accepted and we entered into a period of 120 days of exclusivity, that he would be addressing that issue by looking to identify a very relevant and senior team of retail executives with a track record of running large retail organisations.

Q1014 Chair: Was that existing BHS management or was that a whole new team?

Joseph Dryer: Clearly a key element was retention, retaining key BHS management, but what the firm needed was a new CEO to come in here and reshape the business.

Q1015 Richard Fuller: Nicolas, can I ask you similar sort of questions? Can you explain how Farallon Capital got involved with this particular transaction with Arcadia?

Nicolas Giauque: Absolutely. Maybe I should say straight off the bat that there were two transactions for us, or two potential approaches that were made by Dominic Chappell to us. One was with regards to providing working capital for the acquisition and the subsequent one in May, June was providing working capital at that time. The initial introduction came from an adviser who we mutually knew and it was a simple, “I know somebody who is interested in putting something together” and that adviser did not get involved any further. That is the genesis of the transaction, the review that we did. The second time around, again he called us and asked if we were interested.

Q1016 Frank Field: What was the name of the adviser?

Nicolas Giauque: The name of the adviser was Mark Vickers at Merlin Partners, but I must stress that to our knowledge he was not representing us or representing anybody else and really his involvement was just one phone call.

Q1017 Richard Fuller: That was the phone call that put you in touch with Dominic Chappell?

Nicolas Giauque: Yes.

Q1018 Richard Fuller: What was the nature of the original ask of Dominic Chappell? Did he say, “I need £500 million to do a transaction”? Was it, “I am interested in buying British Home Stores. How much do I need?” What was the nature of his initial inquiries with you?

Nicolas Giauque: I thought that it was more of an evaluative process of how much would he need to fund the business and it was somewhere around £120 million. We had discussions over a period of time on and off to determine whether that was something that we could provide and whether that was what he genuinely needed.

Q1019 Richard Fuller: Who came up with the number of £120 million, you or him?

Nicolas Giauque: I believe that came from him.

Q1020 Richard Fuller: At some stage he hired advisers, Grant Thornton. I am not sure if that was before or after the transaction, from recollection. Did you ever see a business plan that had that on it?

Nicolas Giauque: We saw a very initial business plan that I think had been prepared by the BHS management team. I think Dominic Chappell retained Grant Thornton to audit that business plan and the financials and we never saw the output of Grant Thornton because our involvement became null and void at a very early stage in the process.

Q1021 Richard Fuller: That number of £120 million did not come from you? It came from Dominic Chappell?

Nicolas Giauque: Correct, yes.

Q1022 Richard Fuller: How far did you get in saying, “Yes, we can provide you with that”?

Nicolas Giauque: I think this is the crux of the question. Certainly in that first instance we provided Dominic Chappell with an expression of interest.

Q1023 Richard Fuller: Is that a formal letter?

Nicolas Giauque: Technically it was a non-binding term sheet that was conditional on the wide variety of things that you would see. The key three points that I would raise are it was conditional on investment committee approval on our side, it was conditional on due diligence and it had a special condition on pension. The special condition on pension was satisfactory resolution and consent by the Pensions Regulator with regards to the BHS pension issue. That was straight off the bat, very upfront, what we were seeking to achieve.

Q1024 Richard Fuller: In a very short period of time you recognised that one of the principal conditions of you providing money was that there was explicit signoff from the Pensions Regulator?

Nicolas Giauque: Yes, absolutely.

Q1025 Richard Fuller: Did you get any way in terms of checking whether any of those conditions had been fulfilled?

Nicolas Giauque: We had these initial discussions and initial exchange of documents in early February. At that point in time we had identified who would be our pension advisers. We are not specialists in this matter so we were going to want to review it. Part of the issue that we had was that in order for us to push forward with our due diligence and our work, we wanted to have an exclusivity agreement and a third party fee coverage. That letter was never signed so within our process, if you think about it, we spent a bunch of time trying to figure out exactly what the borrower wants, see whether we can deliver what he needs. Then at that time we identified this sort of agreement to work together to get to something, that is this term sheet, and then we would do our due diligence, but we never got past that stage here.

Q1026 Richard Fuller: Just to help us, you are talking about a non-binding term sheet. Was that at the beginning of the process or at the end of the process? When was that?

Nicolas Giauque: The non-binding term sheet was on 5 February.

Q1027 Richard Fuller: When did you first have your discussions with Mr Chappell?

Nicolas Giauque: The first discussions were probably end of October 2014. I think we signed a NDA on 3 November or 4 November 2014, but it felt like there was a crystallisation of an agreement with the seller some time around January, February. I should say a broad agreement.

Q1028 Richard Fuller: By 5 February you had a non-binding term sheet that you had submitted to him.

Nicolas Giauque: Correct.

Q1029 Richard Fuller: At that point does that mean, “Yes, I am going to provide the money”?

Nicolas Giauque: No, it does not in way, shape or form.

Q1030 Richard Fuller: Can I take it to the bank and put it in my bank account?

Nicolas Giauque: I think you would be hard pressed to achieve that because—

Q1031 Richard Fuller: Can I represent that I have the money to other people?

Nicolas Giauque: I am not in other people’s minds but if I received that on my end and I was the recipient of that, it is subject to investment committee, it is subject to due diligence, and those are subjective decisions on the other side. In no way is that a commitment and I do not think anybody in the City would consider that to be a commitment. It is not considered for that to be a commitment.

Q1032 Richard Fuller: To be clear, Farallon Capital’s willingness to provide money never went beyond that stage? You never did your due diligence, you never got investment committee approval, you never got a note from the Pensions Regulator?

Nicolas Giauque: Of course not. It was never even raised. I am a member of the global investment committee but I never raised it with my members because I thought this was very early on. How many non-binding term sheets of this kind conclude to a final deal? Maybe one in five. The expression in the business is you have to kiss a lot of frogs.

Q1033 Richard Fuller: Yes, I have heard that phrase. In the evidence that Paul Budge, the CFO of Arcadia, provided to the Committee, he said, “He gave his observations”. I think that was relating to Mr Gutman from Goldman Sachs. “As far as we were concerned, the observations were that they—by which he meant Mr Chappell, Swiss Rock—had ability proof that they had lines of funding for £120 million through Farallon. That was very important.” How would you characterise that observation from Mr Budge?

Nicolas Giauque: It was factually incorrect. There was no committed financing available to anybody. We were very far away from a situation where we could have. I think that the testimony from Goldman Sachs supports this assertion. The paper trail, the exchange of documents are very clear here. We are talking about term sheets, draft letters, always mention non-binding, investment committee; we had the pension condition. It was very clear that in no way was this committed financing and I think the appreciation from Goldman is very much in the same line. They use initial; we use non-binding. It is very coherent, so I do not think there is any support for that in fact.

Q1034 Richard Fuller: You are expressing quite an amount of hesitation about whether that money was really there from your own point of view and seeing as it was coming from you I think I would take a lot of credence to that. As you also mentioned, Goldman Sachs were providing their own independent observations, as they call them, to Arcadia. I think the catalogue of calls is in the public domain, is it? Yes. On 3 February there

was a call from Mr Gutman to Sir Philip Green where Mr Gutman informs Sir Philip Green that, “While Farallon appears a credible financing provider—good for you—it had not conducted due diligence and there was risk attaching to the Swiss Rock proposal”. That was on 3 February even prior to your non-binding term sheet. But then after your non-binding term sheet, there was an e-mail from Mr Gutman to Paul Budge indicating that, “He was happy but Farallon’s initial funding proposals were subject to due diligence, documentation, et cetera”. Why is it that Mr Budge would then say to us that he had ability proof that they had lines of funding for £120 million?

Nicolas Giauque: These are people’s opinions.

Q1035 Richard Fuller: I guess what I am trying to say is that that, to my ears, sounds like it is a more confident assertion that money is there than would have been in your mind at that stage.

Nicolas Giauque: Yes. The only conversation we had with Goldman—and our records at least on that point are completely complementary—was one conference call on 3 February. Goldman, to the best of my knowledge, would not have received any further information. Then we exchanged documents—actually we did not exchange documents. We offered a non-binding expression of interest to Dominic Chappell and all the documents that we exchanged at that time with Dominic Chappell, which were never countersigned so we never moved to the next stage, were all about non-binding and investment committee.

Q1036 Richard Fuller: What sort of things was the £120 million financing anticipated being used for? Did you have discussions with Mr Chappell about what that money would be used for?

Nicolas Giauque: It would have been used to fund the working capital of the business.

Q1037 Richard Fuller: Would that include taking money out of the company for his own personal use?

Nicolas Giauque: No, absolutely not. It was just to fund the working capital of the business. It was a big business and it needed access to funding lines to pay for supplies and so on. It was not meant to be able to withdraw it. It was described and it was used in the business plan that the use of the funds was about funding the business.

Q1038 Richard Fuller: Did Farallon Capital make an assessment of whether that was sufficient, even a cursory assessment? When you put your non-binding term sheet, had you worked out whether that would be sufficient to turn the business around?

Nicolas Giauque: At that stage we had looked at a business plan. It was a very cursory glance. We would have only gone into reviewing that in the due diligence process.

Q1039 Richard Fuller: I am not quite sure whether that means yes, we did look at it and it seemed like it was enough or we did not really think about it.

Nicolas Giauque: There was a business plan that was supported by this line, yes. Whether that business plan made sense or not, that is something that we would have done afterwards.

Q1040 Richard Fuller: It was very preliminary. When did you terminate your engagement?

Nicolas Giauque: In that first phase there was no formal termination in the sense that it never got past that very early stage discussion because there was no agreement on covering our due diligence so we never conducted full due diligence. Then we learned on 12 March that the business was sold by Sir Philip Green to Dominic Chappell.

Q1041 Richard Fuller: Your last engagement was a phone call with Goldman Sachs, was it, to advise them?

Nicolas Giauque: No, because subsequent to that we sent a term sheet and then we had back and forth as to this fee coverage letter, “Do you want to sign it? Why don’t you want to give us exclusivity?” There was this back and forth but no progress was made in approving. What I am trying to say is that we were no closer to being in a position to analyse or make a decision on financing on 9 March than we were on 5 February.

Q1042 Richard Fuller: I am just trying to work out when you had your last conversation with anyone connected with this transaction. Maybe you said and I missed it.

Nicolas Giauque: The last conversation was probably on 5 March.

Richard Fuller: That was with—

Nicolas Giauque: With Dominic Chappell. We never had direct interactions with Sir Philip Green or his team. I think at some stage we met the management because there was a group meeting, but that is all.

Q1043 Richard Fuller: What did he say? Did he say, “Nicolas, don’t worry, I’ve got the money from somewhere else” or “why are you calling me?” What was the nature of that final conversation?

Nicolas Giauque: It was we were still talking about potentially having this exclusivity letter amended.

Q1044 Richard Fuller: That was how many days before he purchased the company not using your money?

Nicolas Giauque: Five days.

Q1045 Chair: Can I clarify for my own purposes before I bring Frank and then Richard in? Joseph, your interest stopped in December 2014 and, Nicolas, we have just heard that your interest stopped 5 March.

Nicolas Giauque: In that first transaction, absolutely, yes.

Q1046 Chair: In terms of that, there was some degree of overlap though, was there not? My question is: was there a period of overlap and did you talk to one another about it? Were you aware of each other’s interest in this purchase?

Joseph Dryer: The head of the real estate team had a meeting with Farallon at the time and we were told that their interest in this opportunity remained at a very early stage and had gone nowhere and there was nothing there.

Nicolas Giauque: I was not aware that RiverRock had terminated their engagement. It is common for us to talk directly with principals, we are happy to do that, and so we had an initial meeting with somebody from your shop at some stage. I think there were more conversations with Lennart afterwards but he was not in any capacity.

Joseph Dryer: He was no longer with the firm.

Nicolas Giauque: So , that is all.

Q1047 Frank Field: Nicolas, here we have a private company or companies and legal structures, but all the time you talk about Sir Philip. Our impression is that he calls all the shots, never mind about the legal structure. Is that your impression as well in the sense that you do not bother to refer to this company or that company; you talk about Sir Philip.

Nicolas Giauque: I don't think I could say this. Our conversations were with Dominic Chappell. Everything else is what I would capture from the public and if I gave this—I just don't have any data supporting that other than my impression from the press.

Q1048 Frank Field: You were not dealing with the likes of Paul Budge or anything like that?

Nicolas Giauque: We never met anybody from the seller side. Our interactions were with the potential buyer. That is all.

Q1049 Frank Field: But did Mr Chappell always talk about Sir Philip?

Nicolas Giauque: Yes, he would.

Q1050 Frank Field: Not the legal structure that he was dealing with and buying from him, hopefully?

Nicolas Giauque: That is fair enough, yes.

Q1051 Chair: I want to bring Richard in but I just want to ask both of you, particularly Joseph, what work have you done with Paul Sutton?

Joseph Dryer: None.

Q1052 Chair: None whatsoever?

Joseph Dryer: Paul Sutton was, is and never has been a client of RiverRock.

Q1053 Chair: Have you ever done any sort of preliminary observations with him?

Joseph Dryer: No. He attended a very preliminary meeting with Dominic Chappell in our office in October and we never saw him again.

Q1054 Chair: Is that October 2014?

Joseph Dryer: That is correct.

Q1055 Chair: And you never saw him again?

Joseph Dryer: No.

Q1056 Chair: Did he explain his role as part of that meeting? Why was he there?

Joseph Dryer: He was there because he had said that there had been conversations between him and Sir Philip Green at one point in the past.

Q1057 Chair: Did he expand upon that specifically?

Joseph Dryer: No, he did not.

Q1058 Chair: Nicolas, nothing at all?

Nicolas Giauque: I found out about Paul Sutton when I did my check for the second part of the transaction and I realised that he had been mentioned in the press in May or June, but in the first transaction I never heard of him.

Q1059 Richard Graham: Mr Giauque, before joining Farallon Capital, you worked with Goldman Sachs.

Nicolas Giauque: I did.

Richard Graham: How well did you know Anthony Gutman?

Nicolas Giauque: Not at all. I was an intern in Goldman Sachs in the first quarter of 2013. I don't think that he had been there at the time and then I worked in Singapore and Hong Kong, so I never met him. The first time was in this transaction.

Q1060 Richard Graham: Your role at Goldman Sachs in Hong Kong and Singapore, according to this bio, was in the investment banking and asset management divisions. What was your particular expertise? Was it managing money as an asset manager or conducting deals as an investment banker?

Nicolas Giauque: I was a very young man back then. I don't think I had much expertise, but I was working more closely on mergers and acquisitions when I was in the investment banking division and then in Goldman Sachs asset management I was in charge of covering equities investments more in Thailand and Korea, as a matter of fact.

Q1061 Richard Graham: When it came to the potential transaction involving BHS, how exactly did that come to you? What was the background?

Nicolas Giauque: The background was we had this short introduction by Dominic Chappell and he came in and he offered this—

Q1062 Richard Graham: How did you know Mr Chappell?

Nicolas Giauque: This person that we both mutually knew gave us a call and said, “I know somebody who is looking to put a bid together for BHS. Are you interested in speaking to him?” It was a household name. It seemed interesting to follow it.

Q1063 Frank Field: Nicolas, who was this person?

Nicolas Giauque: This was Mark Vickers at Merlin Partners.

Q1064 Richard Graham: What did you ask him about Mr Chappell and his background?

Nicolas Giauque: From our standpoint, we are perhaps different from advisers. We do our background checks after we determine that there is something to talk about. The only information we really had at the time was that Dominic Chappell had no retail experience but we felt that there was a serious management team on the other side because it was good enough to run the business for Sir Philip Green. We were waiting for the next phase, which never occurred, to determine whether he had the appropriate background.

Q1065 Richard Graham: How many meetings did you have with him?

Nicolas Giauque: I did not have any meetings with Mr Chappell. Farallon as a whole would have had several meetings, 10 meetings or conference calls over the period.

Q1066 Richard Graham: What sort of discussions, typically what sort of subjects would you have covered in those meetings? For example, would you have discussed what his plan was?

Nicolas Giauque: I am sure, and how the financing would take place, the securities that could have been provided, what was the outlook for management, who would sit on the board. All of those things would have been discussed on a preliminary basis.

Q1067 Richard Graham: What was Farallon’s assessment of all this? Chairman, I don’t know whether we have had a written brief from Farallon as to their own assessment of Mr Chappell’s proposed intentions.

Nicolas Giauque: From our standpoint, it felt quite preliminary but it was a household name. It seemed like—

Q1068 Richard Graham: Mr Chappell was a household name?

Nicolas Giauque: No, BHS was a household name.

Q1069 Richard Graham: Yes, but what about the buyer, because you would have been acting for the buyer, wouldn’t you?

Nicolas Giauque: Correct. That would have been something that we would have checked in the second phase. On 3 February we received the consent from Dominic Chappell. He gave us his passport and he gave us the consent to do our checks and that is what we

should have launched at the time, except we never did because those discussions never passed that preliminary stage.

Q1070 Richard Graham: How many meetings typically would you have with a potential client before doing some form of preliminary check on their background?

Nicolas Giauque: We would typically not do any preliminary checks on their backgrounds, proper background checks and giving it to a third party firm. We would do a Google but we would not do anything more than that until we thought we had a reasonable deal, a non-binding term sheet, and we would have typically a cost reimbursement.

Q1071 Richard Graham: You had no contact with Mr Budge or any of the sellers during this period?

Nicolas Giauque: That is correct.

Q1072 Richard Graham: You have seen his testimony that, “Taveta was aware that Farallon’s support was provisional and ultimately not called upon. But their involvement was an important point for us in determining RAL’s overall financial credibility”. What is your assessment of that comment?

Nicolas Giauque: That it was factually incorrect. We had not committed financing.

Q1073 Richard Graham: Why do you think that Mr Chappell was so keen to have these discussions with you given that ultimately he did not actually come to you for any financial support?

Nicolas Giauque: I think he probably was talking to several different financial people to provide financing and he ultimately got the financing for the working capital from the seller, but he was keen on having it from as many sources. I think it is common for people that buy businesses to look for financing from different sources.

Q1074 Richard Graham: Some people might infer that his having your apparent financial support available was crucial to the overall credibility of his bid to the seller and that, therefore, your name was being used. What would you say to that?

Nicolas Giauque: I think we were very clear in all of our conversations with third parties about where we stood in the process, that it was non-binding, subject to our investment committee approval and our diligence, and no one should have thought—no one would have thought and, indeed, I do not believe that Goldman thought—this was anything other than an expression of interest to commit the resources in order to do the analysis going forward. If the parties were very intent on having us at the table, they should have waited for us to finish our due diligence. I think it is very clear what would have happened.

Richard Graham: Can I then go on to Joseph Dryer?

Chair: Very quickly because I am conscious of time and I want to bring others in.

Q1075 Richard Graham: Okay, but these are important things. Can I just ask finally, Mr Giauque, given the possible hit to your reputation from being involved in so many meetings with a man whose credibility now appears to be so low, what sort of improvements do you think could have been done on your checks on a potential client before getting so involved?

Nicolas Giauque: I believe that we followed all of our standards the whole time. We were ready to do our background checks. We were not so involved. I think I refute that. We made a preliminary expression of interest that did not get beyond a very early point and we clearly discussed to all parties where we stood in the transaction.

Q1076 Richard Graham: Okay. Mr Dryer, if I can come on to you, you were the adviser to Mr Chappell and the Swiss Rock ventures?

Joseph Dryer: Yes, correct.

Q1077 Richard Graham: You have earlier covered the "know your client" checks that you had done?

Joseph Dryer: Correct.

Q1078 Richard Graham: How do you feel in retrospect about those?

Joseph Dryer: About the KYC process? He met our KYC requirements to become a client of RiverRock. Equally, at the same time during the few weeks that we were engaged, we conducted a validation and verification exercise to the best of our abilities, and that involved various meetings with his other advisers to ensure that despite all the obvious concerns about capital, retail experience, business plan, there was a deal.

Q1079 Richard Graham: Okay, let us move on from that. Who introduced you to Paul Budge and Dominic Chappell?

Chair: We have done that.

Joseph Dryer: We have done that. Dominic Chappell—

Chair: Can I move on? I am sorry, Richard—

Richard Graham: This is really important.

Chair: No, we have done that, so I want to bring Amanda and then Jeremy in and if there is time I will bring you back, Richard.

Q1080 Amanda Milling: This is a question for Nicolas again. In the time you were having conversations with Swiss Rock and Dominic Chappell, what were your perceptions of the company and him as an individual?

Nicolas Giauque: We thought that what was more attractive was lending to BHS and maybe there was an interesting proposition there. We thought it was early stage discussions but that it was worthwhile due diligence and that is what we did. That is what we intended to do, I should say, rather.

Q1081 Amanda Milling: Were there any alarm bells ringing during the period of time that you were having these conversations?

Nicolas Giauque: In all things that we review there are a number of issues that we want to sort out. There was a pension issue; we had a condition on it. There was background checks; we were going to conduct them in the next phase. There are always a list of issues and that is why we have a second phase, but there is no point in spending a lot of resources on this unless you know that there is at least a joint understanding between the two parties. That is why we initiate with a non-binding term sheet initially and then move on to something else. It was a very early stage expression of interest.

Q1082 Amanda Milling: What was your reaction then when you found out about the sale?

Nicolas Giauque: When I found out about the sale, from my standpoint we were nowhere there. It was neither a disappointment nor news. When I saw the information on Dominic Chappell that came out publicly afterwards, which I am sure that we would have found out in our background checks, and when he approached us again in May/June to see whether we wanted to provide financing, I immediately terminated the discussions.

Q1083 Frank Field: Can I just ask Nicolas and Joseph what do you think, looking back on this? Do you think, “How the hell did we get into this position with these people?”

Nicolas Giauque: Well, I am surprised that my name was used in this room before or in an adjoining room. That is my surprise. We consistently review potential lenders and potential lending transactions. We issue a great many of these non-binding term sheets. They are always very clear about where we stand in the process. The thing that surprises me is that I am sitting in front of you today. That is my biggest surprise.

Joseph Dryer: Well, actions speak louder than words. We resigned as soon as we discovered that a number of the fundamentals under which we were operating and working on in good faith were invalid.

Q1084 Frank Field: But are there 5% of people you deal with or 50% of people who are like the characters that we are discussing now?

Joseph Dryer: In terms of Mr Chappell as an individual?

Frank Field: Yes. Richard asked in a previous session how did he get in the door. Because I am hopeless on this. I have staff to stop people getting to me like this. Presumably, you have some gatekeeping operation, haven't you?

Joseph Dryer: He is introduced by someone who is a consultant of our firm, who is reputable, who we work with and is established, and we work on a step by step basis, very much like the way Farallon has worked. As I said, we look to verify and validate and ensure the information that we are given is true and accurate. When it is not, then we question it and then take action.

Q1085 Frank Field: What percentage of your clients are like this?

Joseph Dryer: In terms of him as an individual, extremely few, thank god.

Q1086 Jeremy Quin: Joseph, you have explained that you resigned. What were the discrepancies that emerged that meant that you felt you could not go on? What were those discrepancies?

Joseph Dryer: We conducted two meetings with Goldman Sachs. The first meeting was a preliminary meeting to again verify and validate our understanding of the agreement and understand what Goldman Sachs's role is. We were told that Goldman Sachs would be acting as the gatekeeper to Sir Philip.

Q1087 Chair: That was the word used, was it?

Joseph Dryer: Correct.

Chair: Goldman Sachs are the gatekeeper?

Joseph Dryer: Yes.

Q1088 Jeremy Quin: Who used that word? I think it would be interesting to find out.

Joseph Dryer: Sorry?

Jeremy Quin: Who used the word "gatekeeper"?

Joseph Dryer: Goldman Sachs.

Jeremy Quin: But someone said that to you?

Joseph Dryer: When we questioned as to their role and instructions, we were told that they would be acting as gatekeeper.

Jeremy Quin: That was Goldman Sachs who said that to you?

Joseph Dryer: Yes.

Q1089 Jeremy Quin: Thank you. Okay, carry on, please, back to the discrepancies.

Joseph Dryer: On our second meeting, which happened a few days later after we had the initial meeting to establish that there was sufficient grounds to go forward, we submitted an indicative proposal based upon the understandings that we had reached. The following day, which was 12 December, I received a call from Goldman Sachs to be told that the proposal that we had submitted had been rejected by the board and by Sir Philip.

Q1090 Frank Field: Goldman Sachs told you that?

Joseph Dryer: Yes. That is not uncommon in an early part of a negotiation.

Frank Field: They are the only people who seem to know everything but were not paid anything.

Joseph Dryer: Well, neither were we, but anyway, far more important was the fact that we were told that the basis under which we were operating, the basis under which RiverRock were engaged, is that there was a misapprehension between Mr Chappell that there was indeed a deal between him and Sir Philip. Now, that is the entire basis that we had been working on since the very beginning, and there were a number of fundamentals that were invalid, namely the pension fund liability. On that basis, we chose very quickly to resign our position. We advised Mr Chappell and we advised the other advisers and we stepped back from the transaction.

Q1091 Jeremy Quin: Did Mr Chappell attempt to explain why the discrepancies had emerged?

Joseph Dryer: When I spoke to him afterwards he was quite surprised himself because he did not understand it, but by that time we felt that this was not something that we wanted to lend our name to and move forward.

Q1092 Jeremy Quin: From your perspective, you believe that Mr Chappell genuinely believed that he would be buying this with the pension fund sorted?

Joseph Dryer: Up to that point there was no question or doubt in my mind that he felt very strongly that he had struck a deal and he managed to convince us and all his other advisers that that was the basis under which we were being engaged.

Frank Field: A deal with what, with Sir Philip?

Joseph Dryer: A deal, as I said, the acquisition that he could acquire BHS for £1, debt free and pension free, as long as he could put forward together a good team of advisers, including us as the investment bank, and raise sufficient capital of £120 million to finance the—

Q1093 Frank Field: Sorry, when he came in to see you, did he say, “I have this deal with Sir Philip and I now have to get these advisers, I now have to front this properly and raise the money” or did he talk about Mr Budge or did he talk about the companies or what?

Joseph Dryer: It was the former.

Frank Field: Yes, that is the image we have.

Q1094 Jeremy Quin: Nicolas, I totally appreciate you had that condition precedent in your term sheet, you had to sort out the pensions and get proper due diligence on it, but did you have any discussion as to whether or not the £120 million of working capital would incorporate the sum required to contribute to the pension liability?

Nicolas Giaque: No, that amount of money was for the business. It was not supposed to be for the—that was going to be taken forward separately, yes.

Q1095 Jeremy Quin: I apologise. I ought to rephrase the question. Clearly, an element of the working capital to be employed over the course of the year would be a contribution, the annual contribution, to the pension fund, and I just wondered if you were

aware as to whether part of that £120 million would be going as a contribution towards the pension fund or not.

Nicolas Giauque: I was not aware.

Q1096 Jeremy Quin: Okay. I wanted to check whether you had any insight as to the possibility of the pension fund being stripped out, but it appears from your list of conditions precedent and from that answer to the question that was not—

Nicolas Giauque: It was going to be a separate discussion that the pension would have been resolved independently of the transaction. We had a special pension condition and we also wanted understanding and due diligence separately. That is why we were ready to have a lawyer go through these issues as well.

Q1097 Jeremy Quin: Thank you. I think I have it, but just to absolutely make certain, there was no suggestion to you, Nicolas, that the pension fund had already been sorted, it was something that you were aware had to be dealt with as part of the transaction and was still on the table to be dealt with at some point?

Nicolas Giauque: I think it is a correct statement, yes, but it had to be sorted as part of the transaction.

Q1098 Richard Fuller: Nicolas, I think you said earlier on that there was a second round of engagement.

Nicolas Giauque: Yes.

Richard Fuller: What was the start of that? When did that start?

Nicolas Giauque: It started around end of May, early June.

Richard Fuller: Of 2015?

Nicolas Giauque: Of 2015, absolutely.

Q1099 Richard Fuller: This is when Mr Chappell had ownership of the business?

Nicolas Giauque: Exactly, he had ownership of the business. He was looking for financing and those conversations were quickly terminated. I think by that time we did not need to do a background due diligence. It was a matter of public record. All the information, the serial bankruptcies and the business dealing, made it obvious to me—and I called it off immediately—that he was not a person that Farallon wanted to lend money to.

Q1100 Richard Fuller: Just for the Committee's understanding, essentially when you said that earlier on you just want it to be full disclosure that you had one conversation, a conversation and a meeting?

Nicolas Giauque: Yes, there were a few conversations between my team and himself and as soon as we reviewed the information that was publicly available, then those discussions were terminated.

Q1101 Richard Fuller: They did not provide you with any internal projections at that stage either?

Nicolas Giauque: I do not believe so.

Q1102 Richard Fuller: Okay. At that stage, did he say what he needed the money for? What was the nature of the conversation?

Nicolas Giauque: Oh, I think it was the same issue that there was financing that had been provided at the time of closing.

Q1103 Richard Fuller: What was that?

Nicolas Giauque: From Sir Philip Green and that money needed to be refinanced over time and, indeed, there were two lending transactions, I think, that did take place, at least that were publicly announced after that time.

Q1104 Richard Fuller: In that discussion, was there a scale of the deal? Was it still £120 million or had it gone down or gone up?

Nicolas Giauque: I recall that it was £75 million.

Q1105 Richard Fuller: So he decided he needed less money now than he had needed before?

Nicolas Giauque: Yes.

Q1106 Richard Fuller: At that stage, did he explain what the money was needed for? Was it just to manage working capital?

Nicolas Giauque: It was again to fund the working capital in the business, yes.

Q1107 Richard Fuller: Did you get to write a term sheet on that one or a draft term sheet?

Nicolas Giauque: I believe that, no, we did not. We certainly did not agree a term sheet. He signed a fee and coverage letter at that time and before we could do anything on the term sheet I terminated the relationship when I found out the public information.

Q1108 Richard Fuller: Which public information was critical to you terminating that discussion?

Nicolas Giauque: I think the articles that were in the public press. The bankruptcies in and of itself and the previous business dealings just meant that this was not a person that I would ever consider to be somebody that we would lend money to and Farallon would never do that.

Q1109 Richard Fuller: Let me be quite clear. For your decision at that point the knowledge that you had about Dominic Chappell and his chequered history was sufficient for you to say, “This is not the sort of person we want to give our money to”?

Nicolas Giauque: That is correct. There are different strands in the due diligence and any one of those strands can be a veto, and certainly that one was and could have been, et cetera.

Q1110 Richard Fuller: But what is interesting is that was your first appraisal.

Nicolas Giauque: I am sorry?

Richard Fuller: What is interesting is the character of the person you are lending to was your first gate. It was not, “Let’s look at the plan, let’s see how much he needs, let’s see what the conditions precedent are, what the security is”. It was, “This person is not a suitable person for me to lend money to”.

Nicolas Giauque: The level of information on him was a little bit different. Of course, we check Google. In terms of the appraisal of a person, we will do a desktop analysis, but the information that was available in January is not the same information that is available in May or June.

Richard Fuller: No, I understand that point and I am not making that point.

Nicolas Giauque: We would have always done that preliminary search back then. It did not come up with anything.

Q1111 Richard Fuller: I understand that, but what I am trying to get is you are a sophisticated lender. You are going to give something of value to someone, £120 million or £75 million. That is a lot to give to someone. You could check the plans of what he is going to spend that money for. You could check the security for what that money is going to be lent against or you could check the character of the individual who you are giving the money to. What you are telling the Committee is prior to you even looking at the plan, prior to you looking at the security, what your knowledge was about that individual was sufficient for you to say, “Let’s not go there”. Is that correct?

Nicolas Giauque: My team had interactions with him, but as soon as I saw the proposal come through I did not go through any of these documents and I terminated it myself at that time.

Q1112 Richard Fuller: So that was the most important thing?

Nicolas Giauque: For me it was. Yes, of course, it is elementary, yes.

Q1113 Richard Graham: Mr Dryer, can we go back a bit to your involvement with Mr Chappell and Paul Budge? When you had the meeting with both of them, and bearing in mind you said earlier that you felt that Mr Chappell was in cahoots, effectively, with Philip Green, was your impression at that meeting that Mr Budge and Mr Chappell were acting together effectively as a cohort?

Joseph Dryer: No, we never had a meeting together, I am sorry.

Richard Graham: You never met them together?

Joseph Dryer: With Mr Budge and Mr Chappell in our offices. I never met with them.

Q1114 Richard Graham: Right. What was your impression about how Mr Chappell had got the idea of buying BHS? Where did you think he had got the idea from?

Joseph Dryer: That is a very good question. I do not know how well he knew Sir Philip. He certainly intimated to us on a regular basis that he was on a first name basis with Sir Philip and his wife and that he and his wife had been entertained many times on his yacht, and I had assumed that that is where that came from. That is that in the course of that social interaction in Monaco this opportunity came up.

Q1115 Richard Graham: Your impression was that he got the idea of buying BHS directly from the Greens?

Joseph Dryer: Yes.

Q1116 Richard Graham: Who else might have discussed with him that opportunity? For example, do you think that Paul Sutton was involved?

Joseph Dryer: Well, as Paul Sutton attended a preliminary meeting with us, and that was the only time he was there with me, possibly, I do not know. But I have no information whatsoever that would lead me to believe that he was in any way co-driving this or co-introducing this opportunity.

Q1117 Chair: Are you saying that in Dominic Chappell's operation Paul Sutton was not co-driving?

Joseph Dryer: It was made very clear to us at the very beginning that it was Dominic Chappell.

Q1118 Richard Graham: What was the relationship then between Paul Sutton and Dominic Chappell that they were at the meeting together with you?

Joseph Dryer: Other than I believe they were friends and maybe they had worked together on other projects, I do not know.

Q1119 Richard Graham: What would you say of the statement that Mr Chappell made about Sutton in April 2015, "In my view he's a grade-A scumbag. I came to know him a year ago when he was talking directly to Philip"?

Joseph Dryer: Are you asking my personal opinion?

Richard Graham: Yes, sir.

Joseph Dryer: I am perplexed is all I can say.

Q1120 Richard Graham: But you advised Mr Gutman of Dominic Chappell's previous bankruptcy and "his historic association" with Paul Sutton?

Joseph Dryer: Well, we had mentioned that when we were introduced and first met Dominic Chappell that Paul Sutton was in attendance because Goldman Sachs wanted to know how we came to be involved. We told them that we had an introduction meeting and in that meeting, where Dominic Chappell was formally introduced to us through our consultant, Paul Sutton was in attendance.

Q1121 Richard Graham: Right. When you discovered, as you put it, the deal was not as first described, was that as a result of hearing directly from Mr Chappell about the terms that had changed?

Joseph Dryer: No. We were told after we submitted the indicative proposal by Anthony Gutman that the proposal had been rejected, which was surprising to us to say the least, but most importantly that we had been operating and working on the basis of a misapprehension between Mr Chappell and Sir Philip.

Q1122 Richard Graham: What conversations did you have with Mr Chappell about that?

Joseph Dryer: Subsequent to that we called him right away and said, “You don’t have a deal”. You can imagine he was rather excited and emotional, but at that point we had been working with him over three weeks and normally when you work with someone over three weeks you get to know them and you build a confidence level that this is someone that we want to work with. That was not exactly the case, so when we realised that the fundamentals of the transaction upon which everything rested were incorrect, and given our growing concerns about the project, we felt the right thing to do was to resign immediately.

Q1123 Richard Graham: How did he explain the differences?

Joseph Dryer: He could not at the time. If I recall, he said to me he was going to be speaking to Sir Philip and his wife over that weekend.

Q1124 Richard Graham: Did you get the impression that he was as surprised as you were that the whole fundamentals—

Joseph Dryer: Yes, I think so, yes.

Q1125 Richard Graham: How did Lennart Henningson resign from you and join Mr Chappell?

Joseph Dryer: Lennart Henningson’s contract, in my understanding—again, he was not part of my group—was terminated in March of 2015. We were rather surprised when we heard that he had joined the board of Retail Acquisitions, but at that time he was no longer with RiverRock.

Q1126 Richard Graham: What was his involvement in the discussions?

Joseph Dryer: None whatsoever. None whatsoever. In fact, Mr Henningson, apart from the introduction and attending a few meetings, really had no role whatsoever in advising or executing or being any part of the process.

Q1127 Richard Graham: What do you think was his value to Mr Chappell in having him as a director of Retail Acquisitions?

Joseph Dryer: I have no idea.

Q1128 Richard Graham: Would it give credibility to the purchase to have him on the board?

Joseph Dryer: No comment. I have no idea. The gentleman sits in Stockholm and has a bit of background in finance. I guess it was up to Dominic Chappell to decide who he wanted to put on his board.

Q1129 Amanda Milling: One question for both of you. Both of your organisations pulled out of engagement with Swiss Rock and Dominic Chappell at various points in time. Why do you believe Sir Philip Green continued with the sale?

Joseph Dryer: Shall I go first? I have no idea. I have no information.

Nicolas Giaque: I cannot judge. He has different information.

Q1130 Frank Field: Nicolas and Joseph, when you started the subscription of this deal, it was coming down the tracks with the pension dealt with. It was going to be signed off by the regulator or whatever the deal was, the pensions were not going to be at risk, and the company was going to be without debt. When did you first find out that this was not going to be so and the company might be sold with the pensions at risk and the company in real problems as far as debt went? Nicolas, might you tell us first and then Joseph if you would?

Nicolas Giaque: When did we find out, if we found out that there was no—when did we find out that there was no resolution to the pension deal? At the time of sale when it was announced publicly on 12 March. There were no discussions.

Q1131 Frank Field: You learnt about it publicly. So, it started out this was always going to be resolved and there was going to be no sale until there was an agreement on this, and then you learnt publicly that something had happened and that was not going to occur, pensions were at risk?

Nicolas Giaque: Yes, but we never really knew exactly what was going to be the resolution to the pension scheme. It could have taken various forms, to be clear, but we only found out that it seems like there was no resolution as of the timescale. I am not aware of any parties—

Q1132 Frank Field: There is only one resolution, isn't there, in the sense that pensions were not going to lose out? That is what I would have thought. Joseph, when did you find out that the deal that you began discussion on somehow in the way that Richard has been talking about fundamentally changed?

Joseph Dryer: Mr Chairman, we entered in good faith into an agreement.

Frank Field: Yes, I am not disputing that at all.

Joseph Dryer: This transaction had a lot of moving pieces to it and it was predicated on the number of advisers and an understanding about the validity of a deal that had been struck. When we were told that there was a misapprehension and we were ourselves operating, and possibly the advisers, under that misapprehension, we no longer thought that the deal was viable. As a result, we pulled out.

Q1133 Frank Field: Roughly when was that, Joseph?

Joseph Dryer: That was on 11 or 12 December.

Chair: Gentlemen, thank you very much. That has been very helpful to the Committee. We appreciate your time. Thank you. Colleagues, thank you.