

KYC News Inc.  
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Attention: David Marchant

7 March 2014

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Our Ref AEH\EQC\31484.1

**Strictly private & confidential**  
**Not for publication**  
**By post and email ([editor@offshorealert.com](mailto:editor@offshorealert.com))**

Dear Sirs

**Mr. Greg Fairley**

We have been instructed by Greg Fairley in relation to a publication by KYC News Inc. ("KYC").

Our client is an accountant in the litigation funding sector and was previously employed by Argentum Investment Management Limited ("Argentum"), Buttonwood Legal Capital Limited ("Buttonwood"), and Professional Funding Services Limited ("PFS").

Our client has informed us about references to him in the recent article by David Marchant headed 'Argentum Capital litigation fund financed by £90 m Ponzi scheme', which was published by KYC on 18 February 2014 (the "Article"). The purpose of this letter is to inform you that the Article that has been and continues to be published referring to our client is unlawful, and to ensure that you do not publish any further false, misleading or defamatory statements about our client. We advise you to seek immediate legal advice in respect of these complaints.

## The Article

The Article was published online via the websites [www.offshorealert.com](http://www.offshorealert.com) and [mail.kycnews.com](http://mail.kycnews.com). The Article continues to be published at <http://www.offshorealert.com/brendan-terrell-argentum-litigation-fund-buttonwood-legal-capital-suspected-ponzi-scheme.aspx> and [mail.kycnews.com/brendan-terrell-argentum-litigation-fund-buttonwood-legal-capital-suspected-ponzi-scheme.aspx](http://mail.kycnews.com/brendan-terrell-argentum-litigation-fund-buttonwood-legal-capital-suspected-ponzi-scheme.aspx). A copy of the Article as published is enclosed for your ease of reference.

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Our client was not contacted by Mr Marchant or any other officers and/or employees of KYC for comment or confirmation in advance of the publication of the Article, which appears to have been published without any regard to the true factual position.

The headline of the Article sets the tone of what follows by claiming the London-based Argentum Litigation Fund appears to be financed by a 'Ponzi scheme', the colloquial term for a fraudulent investment scheme. According to the Article, Centaur Litigation SPC ("**Centaur**") is "*an unregulated, unaudited investment fund*" headed by Brendan Terrill that "*appears to be the main vehicle through which most or all funds raised from investors now flow*". The Article continues:

*"An investigation by OffshoreAlert uncovered a slew of red flags that call into question the scheme's legitimacy and indicate it is doomed to fail. These include*

- Terrill [who 'heads' the scheme] seems to have total control over investors' funds, which initially go into an account at Standard Chartered Bank in Hong Kong, apparently to do with as he pleases;...*
- The appearance in offering material of two 'insurers' of investors' funds – both purportedly managed by AON Insurance Managers (Cayman) Ltd. – that do not even legally exist;...*
- The scheme involves a maze of unregulated, unaudited, unlicensed firms in multiple jurisdictions and is structured to avoid scrutiny;... and*
- Two participants were involved in another litigation funding scheme that went into liquidation last year owing more than £10m to investors who appear to have been swindled. Those investors were also offered 'guaranteed high returns'."*

The Article continues that the two "*bogus insurers*" are affiliated with Savile Management Ltd, a company owned by Buttonwood Statutory Limited. Furthermore, it asserts that British risk specialist Jane Elizabeth Jones is involved with the running of Savile Management Limited, which: "*raises doubts about the quality of insurance protecting investors' funds. Prior to joining Terrill's group in 2011, she was the senior underwriter for 1<sup>st</sup> Class Legal (I.S.) Ltd., a British provider of "risk transfer solutions" to litigation funders. One of 1<sup>st</sup> Class Legal's clients was British litigation funder Professional Funding Services Limited, which went into liquidation on January 4, 2013, after its operators apparently swindled more than £10 million from investors and lenders, starting in 2008*".

Against this background, our client has been directly named and associated with the alleged fraudulent funding scheme in the following paragraph from the Article:

*"A further link between Professional Funding Services and Terrill's litigation funding scheme can be found in British accountant Greg Fairley, 42, who was financial controller and company secretary of PFS from 2008 until 2011, when he left the sinking ship, going on to become a director within Terrill's Buttonwood group for five months in 2012 and serving as chief operating officer, no less, of Centaur Litigation SPC's investment*

manager, Cayman-domiciled Argentum Investment Management Limited, from December, 2012 to July, 2013" (the "Statement").

### **Allegations**

The Article would be understood by the ordinary reader to make the allegations that our client knowingly and dishonestly carried out and/or facilitated a fraud in his roles as: (1) financial controller and company secretary of PFS; (2) director of Buttonwood; and (3) chief operating officer of Argentum through the creation and/or operation of a fraudulent Ponzi scheme. This is not true and is seriously misleading and defamatory of our client, who at no point had any knowledge of any such schemes or participated in any such fraudulent conduct.

The Statement suggests that our client was one of the operators of PFS who "*apparently swindled more than £10 million from investors and lenders, starting in 2008*" during his time as financial controller and company secretary. This allegation is made all the more serious by the explicit reference to both the year of our client's appointment (2008) and the year that money started being embezzled (2008), thus inferring some correlation between the two events. The further implication is that, as financial controller, our client oversaw the duplicitous use of funds and then left the "*sinking ship*" to fall into liquidation, suggesting a lack of professional integrity.

After detailing that our client worked as chief operating officer of Argentum, the Article describes Argentum as "*the Investment Manager for the Argentum Group, with extensive legal, fund and insurance expertise and a network of legal practitioners... is responsible for sourcing and managing all lawsuits that are funded by Terrill's scheme*". These statements, alongside the Article's title and the description of Centaur as the "*main vehicle through which most or all funds raised from investors now flow*" are clearly allegations of improper conduct on the part of our client, the implication being that our client was aware of, and involved in, "*Terrill's [Ponzi] scheme*" and managed lawsuits that were funded by the proceeds of crime.

The Statement further implies that there is an inherent connection between PFS and Buttonwood, stating that our client's appointment as a director provided a "*further link between Professional Funding Services and Terrill's funding scheme*". The implication of this assertion is that PFS's liquidation occurred in circumstances similar to those of the alleged Ponzi scheme of Buttonwood.

### **The true position**

The above allegations against our client are all false and misleading. The true position is that, owing to the complex structure of the Buttonwood and Argentum entities (acknowledged by the Article), other than two isolated occasions, our client never met or corresponded with any actual or prospective investors in any way at any time. The two isolated occasions were when our client was asked to join a conference call with a prospective investor in order to explain technical matters in relation to litigation insurance. Indeed, our client's role in these organisations was restricted to business operations and generating case leads. In short, our client was managing and sourcing cases, rather than raising capital. He was simply not exposed to this area of the

business. Furthermore, our client is not, and has never been a shareholder or a formally appointed director of any of the entities mentioned in the Article.

Our client was never aware of, or indeed assisted with, any fraudulent activity during his time at PFS. Furthermore, the reference to 2008 as the year that money started being embezzled is wrong. Other than some initial seed capital, our client's understanding is that no monies were raised by PFS until well into 2009. Our client left PFS at the beginning of June 2011, over 18 months before the company was put into creditors' voluntary liquidation. In fact, our client remains committed to PFS's creditors and shareholders and continues to regularly assist its appointed liquidator.

The Article refers to Argentum as Centaur's "investment manager". This is false and misleads readers as to the relationship between the two entities. Centaur Litigation Limited is an investor in Argentum Capital Limited and an investor in certain third party litigation claims managed by Argentum. Argentum is not and was never the global investment manager for Centaur Litigation Limited or Centaur.

Other than the fact of our client's employment by both PFS and Buttonwood there is no direct link or commonality between the two entities. Whilst it is true that both entities were/are third party litigation funds and used 1<sup>st</sup> Class Legal (I.S.) Ltd to source some of their cases and arrange some of their insurance, our client is not aware of any further connection beyond this.

### **Defamation**

As detailed above, the Article is therefore seriously false and defamatory of our client and is likely to cause significant damage to our client's professional and personal reputation.

Our client is currently the CEO of two companies in the litigation funding industry, with registered offices in London, and is well known and respected in legal circles in England and Wales. Our client's reputation in the UK will therefore be damaged by your defamatory and misleading Article. We are aware from your website that KYC considers that *"Marchant and/or OffshoreAlert are generally considered to be leading authorities on OFCs [Offshore Financial Centers] and serious financial crime and that they are routinely quoted or referenced by news organisations around the world, including The Wall Street Journal, Los Angeles Times, The Washington Post, The Economist, BusinessWeek and CBS News"*. It is precisely for these reasons, as well as the seriousness of the allegations, that the Article is seriously damaging to our client's reputation. For example, our client has already received an email from a prospective business partner who has read the Article and is delaying entering into a business relationship with our client until this matter is resolved.

A subscriber to [www.offshorealert.com](http://www.offshorealert.com) (for a monthly subscription of \$60) can easily access the Article by making one selection from the website's homepage. The Article's headline is part published on the homepage as the second item under the banner 'Latest News'. Accordingly, we infer there has been, and will continue to be, significant publication of the Article within England and Wales and elsewhere.

We have therefore informed our client that they are in a position to commence High Court proceedings for libel against KYC and/or Marchant. Further, the English Court would clearly give permission for such a claim to be served on KYC and David Marchant personally in Miami.

### **Malicious falsehood**

As made clear above, the Article that is currently being published by you about our client contains a number of statements which are false and misleading.

By specifically mentioning our client in the Article without approaching him for comment or confirmation of these statements demonstrates a lack of responsible journalism and your indifference to the truth of the facts claimed. This letter clearly identifies the factual errors in the article and sets out the true position. You therefore cannot continue to publish the Article with an honest belief as to the truth of the allegations against our client. We have therefore advised our client that if you continue to publish the Statement despite the explanation provided in this letter, our client will have a claim against you for malicious falsehood in England and Wales.

### **Next steps**

Notwithstanding our client's legal claims, however, his principal concern is to prevent further unwarranted damage to his reputation by securing the removal of the Statement and to mitigate any further damage that the Article may cause by ensuring that the allegations are not repeated and that an apology is published as soon as possible. Whilst our client does not seek to restrict your ability fairly to discuss your honestly held opinions about Argentum, he is not prepared to tolerate continued misleading and defamatory allegations being made against him.

As an immediate step, our client therefore requires:

1. that you immediately remove the Statement from the Article;
2. that you provide an undertaking that you will not make the same or similar untrue and/or defamatory allegations about our client in the future; and
3. that you publish an online clarification and apology to our client, the terms and prominence of which should be agreed with us in advance, via both [www.offshorealert.com](http://www.offshorealert.com) and [mail.kycnews.com](mailto:mail.kycnews.com).

Our client is also entitled to damages and their legal costs. However, whether he issues proceedings to recover damages and costs will be determined by the speed with which you cooperate in relation to the above requests.

Given the seriousness of the allegations, we require your response as soon as possible and in any event by **4pm on 14 March 2014**.

Meanwhile pending your response, our client's rights remain entirely reserved.

Yours faithfully

*Olswang AP*

**Olswang LLP**

Enc.



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