

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
BUSINESS LIST (ChD)

B E T W E E N:

(1) TULIP TRADING LIMITED (a Seychelles company)

Claimant

- and -

(1) BITCOIN ASSOCIATION FOR BSV (a Swiss verein)

[REDACTED]

Defendants

THIRD WITNESS STATEMENT OF TIMOTHY WILLIAM ELLISS DATED 27 SEPTEMBER 2023

I, **TIMOTHY WILLIAM ELLISS**, a solicitor of the Senior Courts of England and Wales, of Enyo Law LLP, Fifth Floor, 1 Tudor Street, London, EC4Y 0AH, **WILL SAY** as follows:

1. I am a partner of Enyo Law LLP and I am instructed in these proceedings by the Second to Twelfth

Defendants (the “**Enyo Defendants**”).

2. I have day-to-day conduct of the proceedings and am duly authorised to make this witness statement on behalf of the Enyo Defendants.
3. I make this witness statement in further support of the Enyo Defendants’ application dated 11 July 2023, that the Court (i) determines certain issues as preliminary issues; and (ii) in the light of that, strike out this claim as a fraudulent claim and an abuse of process (the “**Strike out and Preliminary Issue Application**”).
4. By way of preliminary formalities:
 - 4.1. Except where I indicate to the contrary, the facts and matters contained in this witness statement are within my own knowledge. Where the facts and matters are not within my own knowledge, I have indicated my sources of information and belief.
 - 4.2. Nothing in this witness statement is intended to, or does, waive any privilege belonging to the Enyo Defendants.
 - 4.3. There is now produced and shown to me a bundle of copy documents marked TWE-3, that contains paginated copies of documents to which I shall refer to in this witness statement. Where I refer to documents in this witness statement, I refer to these as TWE-3/page number(s).

A. Background

5. Dr Craig Wright is one of the ultimate beneficial owners and the natural person with control of Tulip Trading Limited (“**TTL**”), the claimant in these proceedings.¹
6. Dr Wright is involved in a number of other claims currently ongoing in the English courts including:
 - 6.1. Crypto Open Patent Alliance v Craig Wright (Claim No. IL-2021-000019) (the “**COPA Claim**”);
 - 6.2. Craig Wright, Wright International Investments and Wright International Investments UK Limited v BTC Core & others, including the Enyo Defendants (represented by Macfarlanes) (IL-2022-000069) (the “**BTC Core Claim**”); and
 - 6.3. Coinbase Global Inc & others v Craig Wright (IL-2022-000035) and Payward Inc & others v Craig Wright (IL-2022-0000636) (together the “**Passing Off Claims**”).
7. Of these claims, the COPA Claim is the most advanced, with a trial scheduled for January 2024.

¹ Wright 1, §1

8. Pursuant to the order of Mr Justice Mellor dated 12 June 2023, the parties in the BTC Core Claim were given access to Dr Wright’s disclosure in the COPA Claim.

B. MYOB Data

9. TTL claims to own digital assets valued at approximately \$4 billion held in two addresses: the 1Feex Address and the 12ib7 Address. TTL says that it held private keys to these digital assets but these were stolen and deleted during an alleged hack in February 2020. The Enyo Defendants’ position is that this is a fraudulent claim, which has been commenced in reliance on fraudulent documents, and is an abuse of process.

10. As set out in paragraphs 47 to 50 of Elliss 1, the only contemporaneous evidence relied on by Dr Wright as to TTL’s ownership of the 1Feex address in 2011 are (i) the Purchase Order (which the Enyo Defendants contend is a forgery for the reasons explained in Elliss 1) and (ii) certain accounting documents, primarily in the form of Mind Your Own Business (“**MYOB**”) and Xero records.²

11. MYOB is an Australian accounting software primarily for small businesses, which allow businesses to input their accounting data into the software. It is not an external record of assets: the inputs are controlled by the person recording those assets. TTL’s case is that the MYOB records show companies associated with Dr Wright owned the Bitcoin in the 1Feex Address on 26 February 2011.³

12. In February 2020, Ontier (on the instructions of TTL and Dr Wright) instructed Alix Partners to give forensic accounting evidence on TTL’s ownership of the Digital Assets. Alix Partners consequently prepared the Project Farringdon Report dated 20 April 2021, the purpose of which was to provide evidence in support of TTL’s application for permission to serve these proceedings out of the jurisdiction, permission for which was granted on an *ex parte* without notice basis by Deputy Master Nurse on 8 May 2021.

13. According to the Project Farringdon Report, Alix Partners were provided with:

*Financial data recorded in Mind Your Own Business (“**MYOB**”). Our review of MYOB information was based on screenshots and data downloads provided to us in pdf and excel documents. The pdf documents did not provide an indication of date. The excel documents, where dates were provided, were variously dated between January 2008 and January 2015.*

Financial data recorded in Xero Accounting Software (“Xero”) for eleven entities. We were provided with read-only access to Xero. We reviewed the period starting from 1 January 2013, as we

² Elliss 1, §47-50

³ Cain 1, §106

understand from Ontier that the Client transitioned from MYOB to Xero during 2013.

Various additional pdf documents, including a purchase order and screenshots from Xero and MYOB.

Where relevant, these are referred to and attached as exhibits to this report.

14. Following a review of the material that they were given, Alix Partners concluded that *“The MYOB records show that the WII entity recorded the receipt of 79,956 bitcoin as inventory on 26 February 2011.”*⁴
15. The Alix Partners Report was exhibited to the First Witness Statement of Oliver James Cain (previous solicitor for TTL) in these proceedings ("**Cain 1**"). In Cain 1 Mr Cain states:
 - 15.1. *“There are some inconsistencies within the accounting records, which I have set out in the section on full and frank disclosure. However, overall, the records do appear to show that entities related to Dr Wright had recorded the two Addresses from 2011 for 1Feex and 2014 for 12ib7”*⁵; and
 - 15.2. *“the accounting documentation shows that entities related to Dr Wright had recorded the two Addresses from 2011 for 1Feex and 2013 for 12ib7, which is contemporaneous documentation in support of TTL’s ownership (at the very least in respect of 1Feex)”*⁶
16. It is clear from the Alix Partners Report and Cain 1 that both Alix Partners and Ontier were told by Dr Wright that the information recorded in the MYOB records were recorded contemporaneously. However, as set out below, this now appears to have been untrue.

C. The Shadders Email

17. The Shadders Email is an email dated 17 April 2020 from Dr Wright to Steve Shadders (a pseudonym for Steve Coughlan, an individual who, at the time, was Chief Technology Officer at nChain), enclosing a zip file named *“WII.zip”*.⁷ The zip file contains a number of PDF files and an export of financial data in .myox format from MYOB (the **“MYOB Data”**), an accounting and bookkeeping program.
18. The Shadders Email was disclosed in the COPA Claim by Dr Wright, and subsequently made available to the parties in the BTC Core Claim, including the Enyo Defendants in their capacity as defendants to that claim, pursuant to the Order of Mr Justice Mellor dated 12 June 2023.
19. In their review of the COPA disclosure for the purposes of the BTC Core Claim the Enyo Defendants

⁴ Project Farrington Report, §2.3.13

⁵ Cain 1, §107

⁶ Cain 1, §182

⁷ TWE-3/1

identified that the Shadders Email would be relevant to this claim. As such, on 8 August 2023,⁸ Macfarlanes, who act for the Enyo Defendants in the BTC Core Claim, wrote to Dr Wright asking permission, pursuant to CPR 31.22(1)(b), to use the Shadders Email for the purpose of their defence to TTL's claim in these proceedings.

20. On 6 September 2023, Travers Smith, solicitors for Dr Wright and TTL, confirmed that Dr Wright consented to the use of the Shadders Email in these proceedings.⁹
21. Certain of the Enyo Defendants have accessed and analysed the .myox file. It includes accounting information for Wright International Investment Limited and the Craig Wright R&D Trust (which Dr Wright and TTL allege became the Tulip Trust in 2011). The data appears to be an export of a native version of the accounting data that was relied upon by Alix Partners when preparing the Project Farrington Report. As explained above, Alix Partners were not provided with a native version, but with read-only versions and screenshots. The information provided to Alix Partners by Dr Wright and relied upon by Dr Wright therefore showed the stated date of entries, but not when the entries were actually made.
22. It is possible to extract a Journal Security Audit from the MYOB Data, which includes details of when relevant transactions were entered into the MYOB software by using functionality within the software. This Journal Security Audit log is exhibited to my statement.¹⁰ The Journal Security Audit Log indicates that all of the entries of the acquisitions of the 1Feex address were entered into MYOB on 7 March 2020, not in 2011 or 2014. As mentioned above, Ontier (on the instructions of TTL and Dr Wright) instructed Alix Partners to give forensic accounting evidence on TTL's ownership of the Digital Assets for the purpose of bringing these proceedings in February 2020. These entries were therefore made after Alix Partners had been instructed but before the .myox file was provided to Alix Partners.
23. The MYOB Data can also be used to generate a Security Session Report.¹¹ The Security Session Report records the dates and times of the individuals that logged on, or attempted to log on, to the MYOB database. The Security Session Report records that the user "Administrator" was logged into the MYOB database at the time that the relevant entries were made. The Administrator logins were immediately preceded by failed login attempts by "craig@panoptcrypt.com". The company information for the MYOB database is "craig@panoptcrypt.com". [Craig@ panoptcrypt.com](mailto:craig@panoptcrypt.com) is Dr Wright.
24. The evidence I have set out above supports the inference that Dr Wright misled Alix Partners and

⁸ TWE-3/2-3

⁹ TWE-3/4-5

¹⁰ TWE-3/6-11

¹¹ TWE-3/12

Ontier by presenting them with supposedly contemporaneous evidence of his ownership, and then used the same false contemporaneous evidence and the conclusions of Alix Partners based on it to mislead the Court in these proceedings.

D. Correspondence on the Shadders Email

25. In light of the above discovery, on 13 September 2023, my firm wrote to Travers Smith, enclosing the Shadders Email, stating that it appeared Alix Partners and Ontier had been misled by Dr Wright by being led to believe the MYOB Data was a contemporaneous record when in fact the relevant entries were recorded in 2020. The letter requested TTL *inter alia*:

“16.1. Confirm whether TTL maintains that the MYOB accounting information constitutes contemporaneous evidence of the ownership of the 1Feex address. If it does, please explain the basis upon which it does so?

16.2. Explain why the Journal Security Audit in the MYOB data records the entry of the TTL transactions on 6 and 7 of March 2020 and confirm whether TTL accepts that Dr Wright was the author of those entries?

16.3. Disclose copies of exactly what was provided to Alix Partners in the form it was provided to them?

16.4. Explain why Alix Partners were not provided with access to the live version of MYOB containing the data for the relevant entities or an export from that system in the form provided by Dr Wright to Mr Shadders (if they were not)?

16.5. Provide copies of this letter and its attachments (in native form) to Alix Partners and Ontier and ask them to:

16.5.1. Consider the information;

16.5.2. Confirm whether, in light of the information provided, they wish to update or amend their report (in the case of Alix Partners) and Cain 1 (in the case of Mr Cain)?¹²”

26. On 20 September 2023, Travers Smith responded to Enyo’s letter, and referring to a letter Travers Smith sent to Macfarlanes on 6 September 2023, stating, *“it is Dr Wright’s position that the .myox file you refer to “is merely an incomplete, not forensically extracted file from the live, cloud-based MYOB accounting data, as opposed to the latter itself, downloaded by Dr Wright for a different purpose to that which [Macfarlanes’ clients] contend. As such TTL does not consider the file to be a document that*

¹² TWE-3/13-17

it is appropriate for TTL to rely on in its claim.” Travers Smith did not respond to any of the serious questions raised, instead they merely stated that the matters alleged are being taken seriously, and that they “will overlap significantly with the investigations currently being undertaken by Dr Wright and his Part 35 expert in forensic document analysis for the purpose of a responsive report due to be filed in the COPA Proceedings by 23 October 2023.” They therefore concluded that “once those investigations are completed, we will update you (and, if necessary, the Court) on the position”.¹³

27. My firm consequently wrote further to Travers Smith on 25 September 2023.¹⁴ In that letter we noted that the *“response does not address any of the questions asked or otherwise address the central allegation that the MYOB data that TTL relied upon as contemporaneous evidence of TTL’s ownership of the 1Feex Address in 2011 was in fact entered by Dr Wright in March 2020.”* As a consequence of this we would *“rely on the matters set out in our letter as a yet further instance of fraud in the conduct of this claim in support of their application for a preliminary issue trial.”* No response has been received to this letter.

E. Conclusion

28. In light of the above, there are serious issues with the documentation that TTL has relied on as the only contemporaneous evidence that it owned the Digital Assets on the 1Feex address. I believe the above is, in fact, further evidence of Dr Wright’s propensity to commit fraud and produce fraudulent documents for the purpose of furthering court proceedings, as well as further evidence that TTL never had any interest of any kind in the Digital Assets and that TTL’s claims in this regard are being brought fraudulently, knowing that they are untrue and based on evidence which Dr Wright knows to be false, thereby abusing the process of this Court.
29. I have already set out a number of factual points that indicate the Ownership Issue is a suitable for a preliminary issue trial.¹⁵ I believe that this is further compelling evidence that it would be right and just for a preliminary issue trial to be ordered, given the significant volume of prima facie evidence that undermines TTL’s claim to ownership and indicates that the claim is being brought fraudulently and that TTL and Dr Wright are abusing the process of this Court.

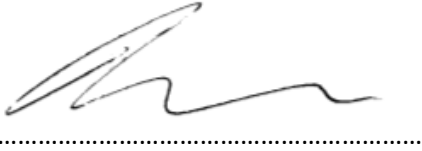
¹³ TWE-3/18-19

¹⁴ TWE-3/20-21

¹⁵ Elliss 1, §97

STATEMENT OF TRUTH

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of Court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.



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Timothy William Elliss

27 September 2023