

THE HIGH COURT

Record No. 2011 No. 219MCA

IN THE MATTER OF CUSTOM HOUSE CAPITAL LIMITED

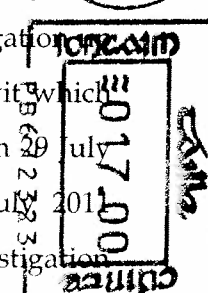
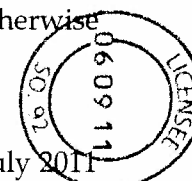
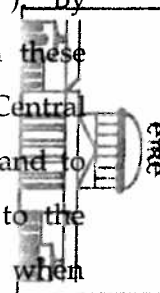
AND IN THE MATTER OF AN APPLICATION PURSUANT TO REGULATION 166 OF
THE EUROPEAN COMMUNITIES (MARKETS IN FINANCIAL INSTRUMENTS)
REGULATIONS 2007

ON THE APPLICATION OF THE CENTRAL BANK OF IRELAND

FOURTH AFFIDAVIT OF NOEL THOMPSON

I, **NOEL THOMPSON**, Senior Regulator, of the Central Bank of Ireland, Block D, Iveagh Court, Harcourt Road, Dublin 2 aged 18 years and upwards **MAKE OATH AND SAY** as follows:

1. I am a Senior Regulator of the Central Bank of Ireland ("the Central Bank"). By Order made on 15 July 2011 on the application of the Central Bank in these proceedings, I was appointed as an inspector (with Mr George Treacy of the Central Bank) to investigate the affairs of Custom House Capital Limited ("CHC") and to report the results of the investigation to this Honourable Court, subject to the provisions of paragraph 7 of the Order. I beg to refer to the said Order when produced. I make this affidavit on my own behalf and on behalf of Mr Treacy make this affidavit from facts within my own knowledge, save where otherwise appears, and where so otherwise appears I believe the same to be true.
2. On 20 July 2011 Mr Treacy and I produced our first interim report dated 20 July 2011 ("First Interim Report") to the Court, setting out the progress of our investigation to that date. The First Interim Report was exhibited to my Second Affidavit which was sworn on 20 July 2011 and to which I beg to refer when produced. On 29 July 2011 Mr Treacy and I produced our second interim report dated 29 July 2011 ("Second Interim Report") to the Court, setting out the progress of our investigation



between 20 July and 29 July. The Second Interim Report was exhibited to my Third Affidavit which was sworn on 29 July 2011 and to which I beg to refer when produced.

3. By Order of this Honourable Court dated 29 July directions were given in relation to the provision of the Second Interim Report to other parties. In accordance with those directions and with the undertaking given by the solicitors for the Inspectors, (McCann FitzGerald solicitors) to the Court on the same date, the following steps were taken;

- (a) A copy of the Second Interim Report was delivered by hand to Mr John Anthony O'Dwyer, chairman of CHC, at the registered office of CHC on 29 July 2011. The report was delivered under cover of a letter from McCann FitzGerald and with a cover page which set out the terms upon which the Court directed a copy of the Report to be furnished to Mr O'Dwyer. I beg to refer to a copy of that letter and of the cover page to the report upon which pinned together and marked "NT9" I have signed my name prior to the swearing hereof .

- (b) A copy of the Second Interim Report, addressed to the Secretary of the Central Bank was delivered by hand to the offices of the Central Bank on Dame St, Dublin 2 on 29 July 2011, under cover of a letter from McCann FitzGerald. I beg to refer to a copy of that letter upon which marked "NT10" I have signed my name prior to the swearing hereof.

4. Since this matter was last before this Honourable Court on 29 July 2011 Mr Treacy and I have continued our investigation into the affairs of CHC with the assistance of advisors, KPMG. The progress of our investigation, together with details of significant developments, is outlined in a further short interim report dated today ("Third Interim Report"). I beg to refer to a copy of that report upon which marked with the letters "NT11" I have signed my name prior to the swearing of this affidavit.

5. I make this affidavit for the purpose of verifying the contents of the Third Interim Report. I say that to the best of my knowledge, information and belief at the time of completion of the report the statements contained in the report are true and accurate.

6. I respectfully suggest that, as with the First and Second Interim Reports, a copy of the Third Interim Report should formally be forwarded to the Central Bank pursuant to Regulation 171(2)(a) of the MiFID Regulations. I do not believe that a copy of the Third Interim Report should be furnished to any other party as I do not believe that it is necessary or appropriate to do so given the short interim nature of the report and the matters being considered by the Inspectors. I say that the First and Second Interim Reports were provided to John A. O'Dwyer, chairman of CHC however, for the reasons set out at paragraph 4.6 of the Third Interim Report, the Inspectors do not believe the Third Interim Report should be provided to Mr. O'Dwyer.
7. I say that the Inspectors are currently of the view that they will be in a position to make a final report to the Court pursuant to Regulation 171(1) of the MiFID Regulations in early to mid October. The Inspectors are working on a draft of their final report. However, in light of the fact that the final report will likely contain findings in relation to individuals, the Inspectors intend to give individuals in relation to whom such findings are made an opportunity to make submissions in relation to their proposed findings and the timetable suggested herein seeks to factor this process into the completion of the final report. By early to mid October, and possibly earlier, the Inspectors anticipate being in a position to present the final report and make recommendations to the Court as to what (if any) orders the Court might consider making. Accordingly, I would respectfully request that the Honourable Court list the matter again for some date in October 2011 with liberty to apply in the meantime and to make the further direction referred to at paragraph 6 above.

SWORN by the said NOEL THOMPSON this
6 day of September 2011 at

Riverside One, Sir John Rogerson's Quay
 before me a ~~Commissioner for Oaths~~ /
 Practising Solicitor, and I know the Deponent.

Noel Thompson
 Deponent

Richard O'Connell Esq. M.A.
 Practising Solicitor / ~~Commissioner for Oaths~~

This Affidavit is filed this day of September 2011 by McCann FitzGerald, Solicitors, of Riverside
One, Sir John Rogerson's Quay, Dublin 2 (Ref: RCB/FOB)