

COMPANY DIRECTORS DISQUALIFICATION ACT 1986

DISQUALIFICATION UNDERTAKING

IN RE CANTILLON LIMITED (Company number 00916538) ("CANTILLON") and  
CANTILLON HOLDINGS LIMITED (Company number 05017698) ("CH") (together  
"CCH")

**CASE 50697: CMA INVESTIGATION INTO THE SUPPLY OF DEMOLITION AND  
RELATED SERVICES IN THE UNITED KINGDOM**

I, Paul Andrew Cluskey, of [REDACTED], hereby undertake  
to the Competition and Markets Authority ("the CMA"), on the basis set out in the schedule  
attached to this disqualification undertaking, that in accordance with section 9B of the  
Company Directors Disqualification Act 1986 ("CDDA 1986"):

I WILL NOT for a period of **4 years 6 months**:

- a) be a director of a company, act as a receiver of a company's property or in any way,  
whether directly or indirectly, be concerned or take part in the promotion, formation or  
management of a company unless (in each case) I have the leave of the court; or
- b) act as an insolvency practitioner.

Further, I understand that, if I act in contravention of the above disqualification undertaking:

- a) I may be prosecuted for a criminal offence (CDDA 1986 section 13); and
- b) I may be personally responsible for all the relevant debts of a company (CDDA 1986  
section 15).

The scope and effect of the disqualification undertaking that I hereby give have been explained  
to me in the CMA's letter of 10 February 2023.

I further confirm and undertake to the CMA that I will use my best endeavours to cooperate with,  
and assist, the CMA in its director disqualification investigation in relation to Case 50697 and  
any related proceedings.

The CMA has explained that I may seek legal or professional advice on the effect of this  
undertaking, and I was given the opportunity to do so before signing the undertaking.

Signed

.....  
PAUL ANDREW CLUSKEY

20.02.2023

.....  
Date

Accepted by



**20 February 2023**

.....  
**Date**

For the Competition and Markets Authority

Note: the period of disqualification commences at the end of **70 days** beginning with the day on which the disqualification undertaking is accepted by the CMA, and that commencement date is **1 May 2023**.

**SCHEDULE TO THE DISQUALIFICATION UNDERTAKING GIVEN BY**  
**PAUL ANDREW CLUSKEY**

Solely for the purpose of the CDDA 1986, and for any other purposes under the provisions of the CDDA 1986 and other legislation consequential to the giving of a disqualification undertaking, I admit the following matters:

**BACKGROUND**

1. Cantillon Limited ('**Cantillon**') was incorporated on 28 September 1967. Cantillon Holdings Limited ('**CH**') was incorporated on 16 January 2004. Throughout the Relevant Periods (defined below) Cantillon was wholly owned by CH.
2. I joined Cantillon in December 2014 as Managing Director. I was appointed as a statutory Director of Cantillon and CH, in February 2015. I continue to hold these roles today.
3. In my role as Managing Director of Cantillon, I am responsible for the management of the day-to-day organisation and operation of the business. I am also responsible for defining the strategy of the business, assisting in its development, and building client relationships.
4. All departmental heads report to me, including the commercial lead, estimating, office management and finance teams. I have oversight of the estimating process and ensure that tender figures are presented to me prior to their issue to the client.

**BREACH OF COMPETITION LAW**

5. As provisionally found by the CMA in its Statement of Objections issued on 23 June 2022 (the **Statement**) and admitted by Cantillon and CH (together, '**CCH**') in settlement of case 50697, Cantillon infringed the prohibition imposed by section 2(1) in the Competition Act 1998 (the '**Chapter I Prohibition**') by participating in nine cover bidding agreements. A number of these infringements occurred before I joined CCH. Following my appointment as a Director of CCH, I was personally involved in and/or aware of five of the cover bidding agreements (together, '**the Admitted Infringements**'), during the time periods set out below (the '**Relevant Periods**'):
  - 5.1. **Admitted Infringement 12:** Between at least 11 November 2016 and 14 November 2016, Cantillon and Erith (as defined in the Statement) infringed the Chapter I Prohibition by participating in an agreement or concerted practice in the form of a cover bidding arrangement. This agreement had, as its object, the prevention, restriction or distortion of competition in relation to the supply of Demolition Services and Asbestos Removal Services for 33 Grosvenor Place. The contract sum was £15,089,219, and it was awarded to Erith.
  - 5.2. **Admitted Infringement 13:** Between at least 28 October 2016 and 7 December 2016, Cantillon and Keltbray (as defined in the Statement) infringed the Chapter I Prohibition by participating in an agreement or concerted practice in the form of a cover bidding arrangement, as recorded in email exchanges from that period.

This agreement had, as its object, the prevention, restriction or distortion of competition in relation to the supply of Demolition Services and Asbestos Removal Services for Wellington House. The contract sum was £13,446,493, and it was awarded to Deconstruct but, while some work commenced, the project was ultimately cancelled.

5.3. **Admitted Infringement 14:** Between at least:

- (a) 16 November 2016 and 18 November 2016, Cantillon and Keltbray;
- (b) 18 November 2016 and 6 December 2016, Cantillon and John F Hunt (as defined in the Statement); and
- (c) 18 November 2016 and 1 December 2016, Cantillon and Erith; infringed the Chapter I Prohibition by participating in one or more agreements or concerted practices in the form of a cover bidding arrangement or arrangements, as evidenced in contemporaneous email and SMS exchanges. The agreement, or agreements, had, as their object, the prevention, restriction or distortion of competition in relation to the supply of Demolition Services for Ilona Rose House. The contract sum was £20,550,000, and it was awarded to Cantillon.

5.4. **Admitted Infringement 15 in the Statement:** Between at least 19 January 2017 and 28 April 2017, Cantillon and McGee infringed the Chapter I Prohibition by participating in an agreement or concerted practice in the form of a cover bidding arrangement, as evidenced in contemporaneous email correspondence. This agreement had, as its object, the prevention, restriction or distortion of competition in relation to the supply of Demolition Services and Asbestos Removal Services for 44 Lincoln's Inn Fields. The contract sum was £5,141,954, and it was awarded to McGee.

5.5. **Admitted Infringement 17 in the Statement:** Between at least:

- (a) 7 June 2017 and 19 July 2017, Cantillon and Erith;
- (b) 7 June 2017 and 19 July 2017, Cantillon and Scudder;

infringed the Chapter I Prohibition, as evidenced in contemporaneous email and SMS exchanges, by participating in one or more agreements or concerted practices in the form of a cover bidding arrangement or arrangements which had as its object the prevention, restriction or distortion of competition in relation to the supply of Demolition Services for 135 Bishopsgate. The contract sum was £4,769,237, and it was awarded to Cantillon.

6. I understand that each of the Admitted Infringements constitute separate and freestanding breaches of competition law (and do not form part of a single continuous infringement).

7. I accept that:

- (a) each of the Admitted Infringements had the object of restricting competition;
- (b) Cantillon breached competition law by engaging in the Admitted Infringements;
- (c) at all material times, Cantillon was wholly owned by CH; and

- (d) accordingly, for the reasons set out in the Statement, as admitted by CCH and summarised above, the first condition for a competition disqualification order is satisfied (namely, that the relevant company of which I was a director committed a breach of competition law).

### **MATTERS OF UNFITNESS**

8. During the period I was a director of Cantillon and CH, Cantillon participated in the Admitted Infringements. The Admitted Infringements with which I was involved, related to contracts valued at a total of £58,996,903. As set out in paragraph 5 above, these infringements have been admitted by CCH.
9. I admit that my conduct as a director of Cantillon and CH was such as to make me unfit to be concerned in the management of a company. In particular, my conduct contributed to CCH's breaches of competition law: as a Director of CCH, and as the person with final oversight over each tender issued, I accept that I contributed to Cantillon's participation in each of the Admitted Infringements.
10. In the case of Admitted Infringements 12, 13 and 17, I was aware of the cover bidding arrangements, and took no steps to prevent the conduct. My awareness of these arrangements is summarised as follows:
- 10.1. **Admitted Infringement 12:** This infringement involved Cantillon providing a cover bid for Erith. As I explained to the CMA during my interview on 10 November 2020, I recall that there was an agreement for Cantillon to cease actively competing for the tender. As we had agreed to 'stand back', I did not internally progress the tender as I ordinarily would and treated it as 'lost'. However, in accordance with the cover bidding arrangement, I nevertheless authorised the submission of a bid on CCH's behalf, thereby representing to the tender manager that Cantillon remained a good faith competitor. Although I attended a meeting with the client, I was simply 'running through the motions' of a bona fide tender process.
- 10.2. **Admitted Infringement 13:** This infringement involved an agreement that Cantillon provide a cover bid for Keltbray. In order to facilitate the cover bid, CCH required Keltbray's tender figures and works programme. I was copied into an email of 28 October 2016 from [REDACTED] (a Cantillon Director) to [REDACTED] (Cantillon's estimator) directing him to contact his counterpart at Keltbray. I subsequently received an email of 7 November 2016 headed '*Wellington [sic] House*' from [REDACTED] (Keltbray) by which [REDACTED] forwarded information concerning Keltbray's works programme. I confirmed receipt of this document to [REDACTED]
- 10.3. **Admitted Infringement 17:** This infringement involved Erith and Scudder providing cover bids for Cantillon to win the contract. I was aware of this arrangement, and took no steps to prevent the conduct. When [REDACTED] (Cantillon estimator) arrived at the final tender figures, and had allocated out the

respective cover bids, he sent the figures to [REDACTED] and me for approval in an email of 15 June 2017. I was copied into [REDACTED] response approving the figures and directing they be relayed to our competitors.

11. Notwithstanding that I was aware of each of the agreement or arrangements above, I took no steps to prevent the conduct in question.
12. In the case of Admitted Infringements 14 and 15, I was a direct recipient of communications from competitors, and I also communicated internally, regarding the cover bidding arrangements. My involvement in, and knowledge of, these arrangements is summarised as follows:
  - 12.1. **Admitted Infringement 14:** I was aware of the arrangement for John F Hunt to provide a cover bid for CCH, but did not take any steps to ensure that this did not occur. During the process, I was the recipient of internal documentation containing John F Hunt's tender figures, and, when I felt that they were not complying with the arrangement, complained in an internal email of 14 December 2016. I was also aware that other competitors were to provide cover bids to ensure CCH won the tender.
  - 12.2. **Admitted Infringement 15:** I was aware of an agreement between CCH and McGee pursuant to which CCH provided a cover bid for McGee. On 18 and 19 January 2017, I engaged in a discussion via SMS with [REDACTED] during which I agreed with the acceptability of the proposed cover price and programme. As I was responsible for the management of the tender process, I also supervised Cantillon's estimators in setting the initial cover price, and was aware that [REDACTED] provided that price to [REDACTED] (McGee) for his approval on 2 February 2017. I was subsequently contacted by SMS on 3 February 2017 by a McGee employee, who wanted to liaise with me directly regarding this contract. I recall that I did not respond to that contact. When McGee provided us with feedback on our cover bid, I noted, in an email dated 6 February 2017, that they had inflated our bid by £150,000 and expressed a concern that the arrangement would be spotted by the client. I nevertheless permitted CCH to submit a tender that acted as a cover price for McGee. I also reinforced the acceptability of such arrangements with less senior colleagues.
13. As a result of my conduct described above, I contributed to Cantillon engaging in conduct which created conditions of competition which did not correspond to the normal conditions of the market and/or took no steps to prevent such conduct.
14. It should have been clear to me, given my position as director, that such interactions between competitors to agree cover bids carried unacceptable risks of infringing competition law. Furthermore, although I had little understanding of competition law *per se*, I was aware at the time that Cantillon's participation in the arrangements was wrong. Since cover bids create a false impression that a bid is genuine (when it is not), the customer is deprived of the benefits of an undistorted tendering process.
15. I accept that cover bidding has been found to be a form of price fixing, and is therefore

among the most serious types of competition law breach. My participation in the Admitted Infringements contributed to Cantillon's breaches of competition law. Those breaches led to Cantillon being made to pay a penalty of £1,920,000 under section 36(1) of the Competition Act 1998, which Cantillon has agreed to pay under the settlement agreement with the CMA dated 22 February 2022.