

IN THE HIGH COUR OF JUSTICE
QUEEN'S BENCH DIVISION
BIRMINGHAM DISTRICT REGISTRY

Claim No: B40BM021

B E T W E E N:-

MR MARK ANTHONY TAYLOR

Claimant/Applicant

-and-

- (1) ANSHU JAIN**
(2) DEUTSCHE BANK AG
(3) HSBC PLC
(4) BARCLAYS BANK PLC
(5) UBS AG
(6) JP MORGAN CHASE
(7) CITIGROUP
(8) ROYAL BANK OF SCOTLAND GROUP PLC

Defendants/Respondents

SKELETON ARGUMENT OF THE FIFTH DEFENDANT
For hearing at 10 30am on 21 October 2015

References to tabs are references to the hearing bundle which has been provided to the Court

Introduction

1. This is the skeleton argument of the Fifth Defendant (“UBS”) for the hearing of Mr Taylor’s application, dated 4 October 2015, for *inter alia* an order that the Extended Civil Restraint Order made by His Honour Judge Simon Brown QC against Mr Taylor on 16 July 2015 [**Tab B2**] be set aside.
2. Mr Taylor has filed a 9 page document entitled “Application Notice” dated 4 October 2015 [**Tab A1**] and a witness statement dated 15 October 2015 in support of his application.

Background

3. The background to this matter can be summarised briefly as follows:

- a. By a Claim Form dated 29 January 2015 [**Tab E1**], Mr Taylor brought a claim against the Defendants alleging that the fall in value of the precious metals he had purchased was caused by a criminal conspiracy between the Defendants to suppress precious metals prices in collusion with regulators, central banks and governments.
- b. His Honour Judge Simon Brown QC heard the Defendants' application for strike out/summary judgment on 16 July 2015. At the hearing:
 - i. HHJ Simon Brown QC struck out Mr Taylor's claim, on the grounds that the claim had no substance in law or in fact, and ordered that Mr Taylor pay the Defendants' costs which he summarily assessed [**Tab B1**].
 - ii. Mr Taylor made an oral application for permission to appeal before HHJ Simon Brown QC, which was dismissed by HHJ Simon Brown QC as being totally without merit [**Tab B1**].
 - iii. Having heard submissions from Mr Taylor, at the conclusion of the Defendants' applications HHJ Simon Brown QC made an extended civil restraint order ("CRO") against Mr Taylor, which he explained was partly for Mr Taylor's own benefit [**Tab B2**].
- c. Mr Taylor filed an Appellant's Notice with the Court of Appeal dated 25 August 2015 [**Tab D1**] seeking permission to appeal HHJ Simon Brown QC's order of 16 July 2015. In response, the First and Second Defendants filed a Written Statement on 16 September 2015 [**Tab D6**], which was adopted by the other Defendants, which explained why Mr Taylor's application for permission to appeal should be refused.
- d. The parties are still waiting for the Court of Appeal's decision on Mr Taylor's application for permission to appeal. However, in the meantime, Mr Taylor has also made the following parallel applications in the Birmingham Court:
 - i. By an application notice dated 6 August 2015 [**Tab A1**], Mr Taylor made an application that the CRO be set aside, relying on the alleged merits of

his substantive claim. That application was dismissed by an Order of His Honour Judge McKenna dated 28 September 2015 [Tab B3], which stated as follows:

“The application is misconceived the Claimant having already unsuccessfully sought permission to appeal from HHJ Simon Brown QC and then having sought permission to appeal from the Court of Appeal.”

ii. Mr Taylor has made a further application dated 4 October 2015 [Tab A2] for an order that:

1. The CRO made by HHJ Simon Brown QC be set aside, which he states can be achieved by “varying” HHJ McKenna’s 1 October 2015 judgment;
2. The costs order against him be “cancelled”;
3. Summary judgment be ordered against the Defendants;
4. In the alternative to (3) that UBS be ordered to disclose certain documents.

Application to set aside the CRO/vary HHJ McKenna’s 28 September 2015 Order

4. Mr Taylor is currently subject to an Extended Civil Restraint Order. Pursuant to paragraph 3.2(2) of Practice Direction 3C, Mr Taylor may only apply for the amendment or discharge of the CRO if he has first obtained the permission of HHJ Simon Brown QC (or if unavailable, the Designated Civil Judge at Birmingham Civil Justice Centre). In addition to those reasons set out in the First and Second Defendants’ skeleton argument, Mr Taylor should be refused permission to make his application for the discharge of the CRO because:

- a. Mr Taylor’s reasons for wanting the CRO to be set aside relate predominantly to the alleged unfairness of the hearing on 16 July 2015 and the substantive merits of HHJ Simon Brown’s decision to strike out Mr Taylor’s claim. For example, Mr Taylor in his Application Notice at paragraph 3 [Tab A2] alleges that the hearing was: *“obviously an unfair hearing, undermined by both judge and defendants, a hearing that was an egregious violation of my human rights.”* Mr Taylor’s

complaints as to the hearing on 16 July 2015 have already been raised in his Appellant's Notice and the other documents he has lodged with the Court of Appeal [Tabs D1 to D4]. The Court of Appeal is currently considering whether to grant him permission to appeal. Mr Taylor's attempt to short-cut that process by pursuing a parallel application in the Birmingham Court is misconceived.

- b. Mr Taylor alleges at paragraph 1 of his Application Notice [Tab A2] that the CRO is "*interfering with the appeal process*" since it is preventing him from having the costs order made by HHJ Simon Brown QC "*set aside or stayed*". Mr Taylor has provided no explanation as to how the costs order¹ is allegedly interfering with the appeal process. He has already submitted all the documents required for his appeal; the parties are now simply waiting for the Court of Appeal to decide whether to grant Mr Taylor permission to appeal.
- c. Mr Taylor's application refers to "new evidence" in particular an article from Bloomberg, which refers to various regulators' investigations into precious metals trading. He alleges that the article shows that the Defendants "lied under oath" (see paragraphs 5 and 12 of his Application Notice [Tab A2]). Mr Taylor's allegations of perjury are completely unfounded and improper. The Bloomberg article, even if factually correct, does not render anything in the witness statement served in support of UBS's application to strike out Mr Taylor's claim [Tab E5] untrue; nor does it undermine in any way the basis for HHJ Simon Brown QC's Order of 16 July 2015 (including the CRO).

Other orders sought by Mr Taylor

5. In addition to seeking to set aside the CRO, Mr Taylor also seeks a number of other orders (see points (2) to (4) at paragraph 3.d.ii above). Pursuant to paragraph 3.2(1)(b) of Practice Direction 3C, Mr Taylor is not permitted to make such applications without first obtaining the permission of HHJ Simon Brown QC (or if unavailable, the Designated Civil Judge at Birmingham Civil Justice Centre). Mr Taylor should be refused permission for the following reasons.

- a. Mr Taylor claims that the costs order against him should be "cancelled", in light of the "new evidence" he refers to. As explained above, the Bloomberg article Mr

¹ UBS has not attempted to enforce the costs order; nor as far as UBS is aware, have the other Defendants with costs awards in their favour.

Taylor refers to does not undermine HHJ Simon Brown QC's judgment. There is therefore no basis on which the costs order should be "cancelled". In any event, whether the costs order was incorrectly made is an issue to be considered by the Court of Appeal when reviewing Mr Taylor's application for permission to appeal.

- b. Mr Taylor also alleges that in light of the "new evidence", summary judgment should be entered against the Defendants. This is completely misconceived. Summary judgment cannot be entered against the Defendants since Mr Taylor's claim has been struck out. In any event, as explained above, the "new evidence" does not in any way undermine HHJ Simon Brown QC's decision to strike out Mr Taylor's claim.
- c. Mr Taylor, in case he is not granted summary judgment against the Defendants, requests that the court orders UBS to make disclosure of "*what it has confessed to the US Department of Justice*". This is again misconceived. Mr Taylor's claim has been struck out; he is not entitled to any disclosure.

Conclusion

- 6. For the reasons set out above, the court is requested to refuse Mr Taylor's application for permission to set aside the CRO and the other orders sought in his 4 October 2015 Application Notice.

NATASHA BENNETT
Fountain Court Chambers
Temple EC4Y 9DH

19 October 2015