Court of Appeal A2/2015/2818

Mark Anthony Taylor vs Anshu Jain and 7 others

Notice of New Evidence – UBS's Confession 23rd Oct 2015

1. On the 27th September 2015 Bloomberg reported that UBS, the 5th defendant, confessed to precious metal price manipulation. The confession was made to the US Department of Justice – the 'DoJ' – a confession for which it apparently won immunity to criminal prosecution.
2. I discovered this new evidence while I was in the process of applying to set-aside/stay costs in the High Court and to set aside the CRO. This came about as a result of Court of Appeal and High Court officials advising me on how to stay costs without having fee exemption – they advised me to set aside the CRO in the High Court first to enable fee exemption so that I could then stay costs.
3. Given the confession, it seemed entirely appropriate to raise the matter in the set aside application, and asserted that the defendants had committed perjury in the July hearing which I believe was implied by the Bloomberg' article. On the 21st September I was given an oral hearing, In that hearing UBS would not even admit or deny speaking to the DoJ. As a result of the judge's behaviour in that hearing, during my preliminary paragraph, I demanded his recusal at the outset. He refused to be recused, and I went on to file a JCIO complaint against him and contest the legitimacy of the verdict. A copy of JCIO complain is attached below, which explains both the issues for the JCIO and for the Court of Appeal.
4. I also enclose a copy of the application for the hearing, and UBS's skeleton argument, along with the witness statement and skeleton argument I filed.
5. I had prepared my preliminary statement in the evening before the hearing, and it was thus: *The defendant's documents have come at very short notice, and they seem to have let the 7 day period for a reply slip by.. Having read UBS's skeleton argument, I searched in vain for a witness statement. May I direct the court to 4c of UBS's skeleton argument. In this point* ***NATASHA BENNETT*** *is casting doubt on the relevancy of the Bloomberg report. What she does not do is admit or deny on UBS's behalf of whether that report is true. So she cannot be a useful witness for cross examination, either she does not know whether UBS have confessed, in which case UBS have chosen an irrelevant witness, or she does know, in which case she is being evasive, and an obstructive witness. The issue is that UBS confessed to precious metal price manipulation to the DoJ and blew the whistle on DB and the other defendants. It was doing this as it was telling the Birmingham Court that they believed Deutsche Bank's bare denial, and consequently believed the integrity of Deutsche Bank's audit.*

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Witness Statement By Mark Anthony Taylor Alleging Corruption and Misconduct Against Sir Charles Haddon-Cave

This document alleges the following articles of misconduct of Sir Charles Haddon Cave, in his capacity of High Court Judge in case **B40BM021** at the Birmingham District Registry,

- Acting while recused.
- Refusal to be recused.
- Refusal to be recused again after it was alleged such was an act of judicial misconduct.
- Refused to be recused yet against after it was asserted such would lead to a JCIO complaint and appeal in the Court of Appeal.
- Allowing 7 counsel to argue for 8 defendants against a charge of perjury, without any of the defence team submitting a witness statement.
- Allowing counsel to argue against perjury without actually denying it in a legally liable form.
- Preventing a preliminary statement contesting the lawfulness of a defence in which no witness statements are submitted.
- Not allowing me to state my allegations forensically.
- Preventing me from answering the key questions of jurisdiction the judge asked.
- Allowing the defence to submit 'ambush' attacks in a civil court.
- Misrepresentation of a Bloomberg report of a *confession* as an *investigation*.
- Refusal to force disclosure of UBS's confession to the US Department of Justice even as UBS receive immunity to prosecution to the DoJ for its so-called co-operation with worldwide legal authorities.
- Effecting a Human Rights violation by allowing asymmetric liability.
- Not having provided any kind of explanation for his conduct throughout the trial.
- Understanding all issues of misconduct without contesting the accusation.
- Acting as advocate for the defence.
- Providing an unlawful verdict that is a violation of the judicial oath in itself.

Background

I have launched a market manipulation lawsuit against a number of banks at the start of 2015. The claim was struck out following a hearing on July 16th 2015 which also saw a CRO filed against me. Due to the misconduct I perceived of the judge Simon Brown QC, I filed a JCIO complaint against him, along with an appeal to the Court of Appeal contesting everything decided in that hearing. An official at the Court of Appeal instructed me to apply to the High Court to stay costs until the matter was resolved. Officials at the High Court then advised me I would first need to set aside the CRO in order to get fee remission to apply to stay the costs, since my means are very limited, and I could not afford court fees. The set aside failed - Judge McKenna who

considered the application, said that since I was already contesting the CRO at the Court of Appeal, the application was misconceived. Rather than run around in circles, I took up Judge McKenna's second court order, offering variation of his verdict on application in an oral hearing. Also at the time of Judge McKenna's first court order, new evidence came in that UBS, one of the defendants, had confessed to guilt of the allegations I made against them, and had confessed this to the US DoJ between the period they filed their defence and the July hearing – which meant they had committed perjury and so undermined their own strike out application. It seemed appropriate then to ask the High Court to not only dismiss the CRO, but also to set aside the strike-out application verdict based on this new evidence.

1.

1. I had considered the possibility of bias to be very likely before the start of the hearing, because judges working at the same court buildings would be natural associates, and this would mean that the judge in the set aside hearing could feasibly put his friendship or natural allegiance before his duties. For this purpose I had emphasized in the application that I wanted the strike-out result set-aside on the basis that defendants had lied to effect the strike-out. It was thus possible for the judge to 'save the other's face' by setting aside the strike out or the CRO on the grounds of a fraudulent application and thus assign no criticism to Simon Brown.
2. In the hearing on 21 October 2015 for my application to set aside the CRO, it soon became apparent to me the judge, Judge Haddon-Cave was unfair and guilty of severe misconduct, to the point of corruption. I have no transcript of that court's recording, so none of my account is verbatim.
3. Prior to the hearing I had received several skeleton arguments from the defence, these came by email over the course of 24 hours or so before the hearing, After studying UBS's skeleton argument, I came to the belief that UBS had not supplied a witness statement, and its single disclosure did not come with a signed belief statement.. From my amateur study of Law, I understand that every skeleton argument in a hearing is limited to the materials specified in the associated witness statement. I double checked my email, and concluded that no defendant had submitted a witness statement. I thought it possible they may have been supplied to the court ex parte. There was no signed belief statement in UBS's submission.
4. The hearing began, and as applicant, I was immediately given the nod to present my case. I started with a preliminary paragraph, in which I pointed out the issue with the witness statements as set out in **point #3** above. It was obvious that I was making the case that since no useful witnesses were in court to contest the allegations I made – to deny perjury - and since there were no witness statements, then the skeleton arguments would not be a legal defence. The defence should be struck out. This is de facto procedure in a hearing when no witnesses or witness statements are provided by a party.
5. The judge interrupted me and would not let me finish my preliminary paragraph, insisting that I explain the rules of procedure, or some such that I was following, that would give jurisdiction to the High Court, rather than the Court of Appeal. I began to explain my reasoning by demonstrating on a forensic basis, that it would ultimately be cheaper for the taxpayer to strike-out the application in that hearing, rather than go through an expensive Court of Appeal process with three appeal judges. Again he kept interrupting. I explained to him that I articulated my reasoning for bringing the hearing in the court application, which basically stated the case as in the background section at the top of this complaint letter. I asked the judge if he had read it. He confirmed that he had. This meant there was no point articulating the application again, as he was determined to stonewall its exposition with an open-ended question.that could really only be better answered by a professional lawyer-unnecessarily high expectations of a LiP and thus discriminatory.

6. The judge kept interrupting my demand to strike-out the defendants' defence on the grounds it had not signed any witness statements and kept interrupting my attempt to explain why it was appropriate to try the case in the High Court. The judge never asked probative questions, and never addressed the logic I posited in the application. **Thus the judge acted as an obstructive and stonewalling inquisitor.**
7. At this point I decided to recuse the judge. I believe I said something of this order, *I recuse you, on the grounds that you allow counsel to present a defence without supplying useful witnesses or witness statements*. He stonewalled me and then asked the defence to state their case. As he had not recused himself, I asserted that it was an act of misconduct, and still he ignored me - finally I threatened him with a JCIO complaint and appeal process. Had he recused himself, or provided a reasonable explanation of his conduct, I may have recinded the demand, and would not have advanced a complaint. The judge was recused at the outset, but ignored the recusal. **The judge never explained why he ignored the recusal, nor explained why counsel were allowed to argue without being legally liable for their arguments through the mechanism of witness statements.**
8. Once the defence began speaking, I objected again, and asked them who was liable for their defence. There was no reply, but the judge told me to be quiet – as if liability for defence is not an issue for the defendants. Throughout the hearing I repeated the assertion that since no defendant was liable, not having submitted any witness statements, or providing any useful witnesses, that *we were not equal before the law.* I reminded the judge that this constitutes an article 6 violation against my Hunan Rights to a fair trial, but again he stonewalled me.
9. **Judge simply did not care about Human Rights** nor never explained why I my reasoning was incorrect.
10. The defendants argued on very technical matters with the judge, on the minutiae of CRO rules in the CPR. This was never presented to me or the court appropriately - in advance of the case - so it amounted to an ambush defence. **I pointed out that it was an ambush defence to the judge, but he stonewalled again.** This is a violation of ambush prohibitions in CPR rules.
11. A stonewalling judge is a dishonest judge. Judges are meant to be creatures of intellectual and moral authority. When that authority is merely the unbridled abuse of power, it undermines that authority and renders us into the state of a banana republic with kangaroo courts.
12. During the verdict the judge ruled that it was wrong to bring a market manipulation lawsuit against the banks, as if banks are 'too big' to litigate against, as if banks are beyond reproach and UK courts do not try market manipulation. **This was elitist discriminatory bias of the worst sort** that undermines the rule of law, and explains why he refused to accept that UBS perjured themselves, as proven by their disclosures to Bloomberg. The accusation was of cartel offence, which entails conspiracy, since cartels are conspiracy, and the judge seemed to think an accusation of conspiracy was somehow prohibited. How can any criminal or civil trial for cartel offence take place if accusations of conspiracy are inadmissible.
13. The conduct of the judge throughout the trial, with the stonewalling of my complaints that defendants must be liable in order to argue, is clearly against the spirit of the law, as elucidated in the *Litigants in Person* section of the *Equal Treatment Benchbook*, in which **the judge should explain contentious issues to the LiP.** It unquestionably led to an unfair trial, which the judge understood well enough, but allowed anyway, and vindicates my decision to recuse him from the outset of his misconduct..The judge according to the *Benchbook*, **is also expected to act as inquisitor against the represented party. The judge must also allow the LiP to present his case, and not endlessly interrupt – to the point of stopping me presenting my case.**
14. As soon as I recused the judge, he then went on to allow the defence to speak, as if my time

was done. **How is this a fair trial?**

15. I also asked to cross-examine the counsel. He said I should wait till all spoke. Once all spoke, he then went on to the present the verdict. **Cross-examination of counsel was prevented** after it was demanded.
16. The judge was asked in the application to force UBS to disclose to the court the particulars of what it confessed to the US DoJ. By refusing to do this, he hampered my appeal to the Court of Appeal, which could well use these disclosures to assess the degree of guilt of at least one of the defendants. **Judge fails to assist Court of Appeal with appropriate probative disclosures.**
17. The judge said several times that the evidence was not new, emphasising that I had referred to regulator investigations in my Particulars of Claim. But I had to remind him, that the Bloomberg news article was not a mere reference to an investigation, but a confession, and it was in fact a confession not to related market manipulation, but to the exact form of market manipulation alleged - gold price manipulation. This was new evidence and he knew it. By transparently white washing the confession as mere 'investigation' he acted corruptly by purposeful misrepresentation of the evidence. I pointed this out to him and he ignored it.
18. As an example of the asinine review of the evidence of UBS's confession, the judge had asserted it had already been stated in the July hearing. But this was clearly nonsense, because the first Bloomberg article that referred to UBS's confession was published AFTER I had submitted the Particulars of Claim and AFTER I had filed replies to the defence. The three *notices to admit facts* that I issued to the defendants only referred to Libor and FX manipulation. At no point in the Particulars of Claim, or in the strike out hearing that followed on the 16th of July 2015, was UBS's confession to the US DoJ ever mentioned. It was absurd and dishonest to claim the evidence was not new. Datestamps on UBS's confession on the set side application were clearly after the Particulars of Claim was filed, showing the judge lied that the confession was part of the claim already. D**ishonesty objectively demonstrable by study of court records, *Particulars of Claim* and the attachments in the set-aside application.**
19. The judge was duplicitous, claiming the new evidence should be adduced to the Court of Appeal's bundle, but in the same hearing denied that there was new evidence. It is the mark of a liar that he contradicts himself.
20. To summarize: there can be no doubt the judge lied, the judge obstructed my forensic analysis of UBS's skeleton argument, the judge obstructed my forensic analysis of jurisdiction, and the judge allowed defendants to argue without being liable for what they argue. By freeing them from the commitment of supplying witness statements, he freed UBS from having to confess or deny perjury. Thus it was entirely justified to recuse him, and entirely contemptful and unjust of him to refuse recusal. **Thus the judge actively violated my right to a fair trial knowingly and corruptly for the benefit of protecting parties from liabilities who had confessed to the US DoJ of market manipulation – parties who receive immunity from criminal prosecution for having made such a confession.**
21. In defence on my complaint, to demonstrate dishonesty, I attach in the email in which this document was delivered a copy of the original court application for the hearing on the 21st of September 2015. I also include a URL here, http://www.bloomberg.com/news/articles/2015-05-20/ubs-shielded-from-charges-in-u-s-precious-metals-investigation in which Bloomberg reported UBS's confession to the DoJ that won immunity. The document submitted to the court as new evidence came from this URL: http://www.bloomberg.com/news/articles/2015-09-28/swiss-competition-body-probes-banks-in-precious-metals-trading
22. You can see the datestamp in that article is 20th May 2015. The email in which the claim was first served is timestamped **Sun, 25 Jan 2015 23:06:47.** The replies to the defence came 6 Mar 2015 14:40:29. The notices to admit facts are attached, and as you can see, none of

them refer to UBS.

23. Since the judge was recused, and not a lawful authority in that court, it appears to me he does not have judicial immunity for his conduct after the point of recusal.
24. The judge, having raised the jurisdictional issues, rather than the defence, acted as advocate – it was the defence's job to contest jurisdiction. Since they could not do that lawfully, not having submitted appropriate documents before the court hearing, I believe the judge chose to provide the defence for them at the exact point I was contesting the legality of the defence. His attempt to dissuade me that jurisdiction was improper having failed, he then let the defence speak.

I, Mark Anthony Taylor, believe all facts in this witness statement are true.

If this document was delivered in an email, the email credentials may serve as an electronic signature.

Version 1.0 – the version first delivered to the JCIO on 25th Oct 2015.
Version 2.0 note: amendments include a slight correction in the e-signature statement, style and grammatical corrections in the bullet points at the top of the document.
Version 3.0 note: amendments in this version consist of nothing but minor spelling corrections.