APPLICATION NOTICE (CUSTOM N244 FORM)

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

Claim No. **B40BM021**
Date: **4th October 2015**

BETWEEN:
MARK ANTHONY TAYLOR, The Claimant (Litigant-in-person)

-and-

1) ANSHU JAIN (FORMER CO-CEO OF DEUTSCHE BANK)
2) DEUTSCHE BANK AG
3) HSBC PLC
4) BARCLAYS BANK PLC
5) UBS AG
6) JPMORGAN CHASE BANK, N.A.
7) CITIBANK N.A., LONDON BRANCH
8) ROYAL BANK OF SCOTLAND GROUP PLC
The Defendants

Request for set aside of civic restraining order for B40BM021 And variation of Judgement by Judge McKenna dated 28 Sep 2015 and summary judgement against the defendants.

I, the claimant, a Litigant in Person, kindly request an oral hearing conducted by a High Court judge, or higher rank, to have Judge Simon Brown's civic restraining order (CRO) against me set aside, which can be achieved by varying the judgement of Judge McKenna against me. Following this, in light of new evidence from the US Department of Justice, the costs against me should me cancelled, and summary judgement made against the defendants, who have issued no lawful defence. I would also ask the court to order the fifth defendant to disclose what it has confessed to the US Department of Justice, in the case that I do not get awarded Summary Judgement. This will allow me to furnish other hearings with key evidence necessary for correct and just judgement. If the Fifth defendant has received immunity for its confession, and yet it refuses to confess to the UK court system, then this immunity should not extend to any litigation conducted against UBS in the UK.

Judge McKenna ordered thus:

The application is misconceived by 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.

Against this judgement I will say:

1. The Court of Appeal instructed me to have the costs set aside or

stayed as part of the appeal process. As a result of needing fee remission, Birmingham High Court officials advised me to set aside the CRO in order to have the costs set aside or stayed. The CRO is thus interfering with the appeal process.

2. A High Court set aside of a judgement is more appropriate than an appeal in the Court of Appeal when new evidence emerges that shows the defendants lied to pervert a verdict. Appeal courts for civil claims are generally not concerned with new evidence.
3. The Court of Appeal is more costly to the taxpayer than the High Court, and it is an inefficient use of taxpayer money to go through an entire appeal process with three Appeal judges than have a High Court judge strike-out what was obviously an unfair hearing, undermined by both judge and defendants, a hearing that was an egregious violation of my human rights.
4. Only permission to appeal is being processed by the Court of Appeal at this point, it makes no sense for this to yield a proper appeal procedure if the High Court does it job and sets aside the strike-out application.
5. Coincident with the time Judge McKenna's judgement was made, new evidence emerged that showed that the fifth defendant, UBS, has admitted guilt of manipulating the price of precious metals. The confession was made to the US Department of Justice - 'the DoJ'. This admission seems to have occurred after UBS filed its so called 'defence' and before the oral hearing conducted by Judge Simon Brown. The evidence for this is:
   a) A news article published by Bloomberg. A copy of the article is attached (attachment 1 second section)
   b) UBS in an email asserted to Judge McKenna and myself that Bloomberg's article is irrelevant. This is not a denial and can be interpreted as an admission – because the confession must first exist for it to be irrelevant. The statement that the confession is irrelevant is clearly dishonest, as a confession of guilt to the DoJ vindicates my accusations against the defendants (attachment 2).
   c) According to Bloomberg the DoJ granted immunity to UBS for whistle-blowing against other cartel members. The DoJ is currently investigating 10 banks for precious metal price manipulation including HSBC, JP Morgan, Barclays Bank and Deutsche Bank (attachment 1 first section).
   d) **Conclusion:** The admission, far from being irrelevant, is crucial for identifying fraud and perjury by the other defendants that undermined the strike-out hearing.
6. A document I refer to as the 'BaFin report' in my previous communications to the court was widely published a day after the hearing. This showed my notices to admit facts were probative and not vexatious, which undermined Judge Simon Brown's verdict that the claim was without merit – and undermines every court order of his that originates from that hearing. This new evidence was supplied to Judge McKenna who appears to have ignored it. If the court does not already have copy I will be glad to supply it by email. An email of the document was already delivered to Judge McKenna as an attachment. (The email is copied in attachment #5).
7. Where defendants have lied to the court to completely pervert the court verdict it is within the jurisdiction of the same court to set-aside its earlier judgement.
8. Now that we know the defendants lied under oath, and have failed to

reveal the particulars of the fraud that would show us how to exactly interpret their violations of the Competition Act 1998 and Enterprise Act 2002, they were in no position to argue points of Law – they were concealing which laws they broke. The most obvious action for the court is to set aside the verdicts for their strike-out application, and bring summary judgement against them for malicious fraud. Summary judgement is needed because they issued no lawful defence, only a bare denial.

9. Judge Simon Brown's accusation of vexatiousness was plainly wrong and unjust when there are outstanding investigations by regulators into precious metal price manipulation perpetrated by the defendants.
10. Judge McKenna says that '...having already unsuccessfully sought permission to appeal from HHJ Simon Brown QC...' I believe that this is not so – and would like to see why it is supposed to be so. I never asked anyone other than the Court of Appeal for permission to appeal. I made it clear in Judge Brown's hearing that I would appeal the verdict and the CRO, but I never asked him permission for anything. Earlier applications I made to the High Court were rejected since I could not pay the court fee, and was not entitled to remission, except to appeal against the CRO. *So I recognize no legal application to get permission to appeal to the High Court, except that made once to Judge McKenna*. The set-aside application was the first and only such application considered by a judge. There are no multiple attempts for a set aside application, and this application is based on new evidence of perjury.
11. I believe I am entitled under CPR 23.10 to apply for variation of Judge McKenna's verdict. Though it was refused, I needed a hearing, because many points were made that undermined the verdict of Judge Simon Brown, and I wanted a judge exposed to the court recorder to explain on a point by point basis why the strike-out hearing was anything other than unfair and unlawful.
12. An explanation of why a set aside application was issued was sent to Judge McKenna by email, and the points raised were not redressed in McKenna's order. There was also no response from him after I informed him of UBS's perjury.
13. Copies of this document will be sent to the defendants by email at the same time it is served to the court.
14. Perusal of any of the defendant's defence documents reveals they issued no probative evidence and have issued a bare denial, reason enough to strike-out their defence documents and issue summary judgement.
15. If necessary the court should refer to the application against which Judge McKenna's verdict was made, as it contains a point by point criticism of Judge Simon Brown's misconduct.

I, Mark Anthony Taylor, believe everything in his document is true.

If this document was served electronically by email, the email credentials may serve as a legal signature.

Signed _____ Mark Anthony Taylor
Date: 3rd October 2015

Attachment 1 – Bloomberg reports UBS's confession to DoJ.

Copied from: ***http://www.bloomberg.com/news/articles/2015-09-28/swiss-competition-body-probes-banks-in-precious-metals-trading***

Switzerland's competition regulator identified seven banks that are being investigated as part of a probe into whether companies in Europe, the U.S. and Japan colluded to manipulate the prices of gold, silver and other precious metals.

UBS Group AG, Deutsche Bank AG, HSBC Holdings Plc, Barclays Plc, Morgan Stanley, Julius Baer Group Ltd. and a unit of Tokyo-based trading company Mitsui & Co. Ltd. are part of the probe, which was opened in February, the Competition Commission said in a statement Monday.

European Union antitrust regulators in August disclosed they are investigating precious-metals trading, specifically anti-competitive behaviour in spot trading, following a U.S. probe that embroiled some of the same banks. UBS was ordered to give up 134 million Swiss francs ($137 million) in profit by the Swiss financial regulator last November after it found "serious misconduct" by the bank's employees in foreign exchange and precious metals trading.

U.S. prosecutors have been examining whether at least 10 banks, including HSBC, Barclays, JPMorgan Chase and Deutsche Bank manipulated prices of precious metals. The scrutiny follows international probes into the rigging of financial benchmarks for rates and currencies, which have yielded billions of dollars in fines.

Conditional Leniency

UBS was granted conditional leniency in the Swiss case, according to a person familiar with the matter. This means the Zurich-based bank may escape punishment because it came clean early and cooperated with regulators. UBS said in May that it won immunity from criminal fraud charges in a U.S. Justice Department investigation into precious metals-trading misconduct.

The Swiss regulator, known as Weko, said it has "indications" the banks may have colluded to coordinate prices, namely the bid ask-spread in the precious metals including gold, silver, platinum and palladium.

The Swiss investigation could last until 2017, with a maximum penalty being a fine, Weko spokesman Olivier Schaller said by phone. He didn't specify how big a fine could be, but added that more banks may be investigated.

Spokespeople for Morgan Stanley, Barclays, HSBC and UBS declined to comment. Jan Vonder Muehll, a spokesman at Julius Baer, said the bank is cooperating with the investigation. A Deutsche Bank spokesman declined to comment. In July, the Frankfurt-based banks said it was cooperating with regulators investigating precious metals markets.

UBS shares were down 0.7 percent at 10:40 a.m. in Zurich, while Julius Baer fell 0.7 percent. Deutsche Bank was down 1.2 percent in Frankfurt. HSBC traded 1.6 percent lower in London.

Attachment 2 – Confession reported to Judge McKenna

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Date: Mon, 28 Sep 2015 20:52:49 +0100
Delivered-To: mark.anthony.taylor@gmail.com
Message-ID: <CANCCXD6T7mtPypUCKZa1X4xJTAPEdJc=enKQzP4PsRkyKgSW4Q@mail.gmail.com>
Subject: Re: Claim B40BM021
From: "TheAbstraction ." <mark.anthony.taylor@gmail.com>
To: County Court Litigation <countycourtlitigation@linklaters.com>
Cc: "birmingham.mercantile@hmcts.gsi.gov.uk"
<birmingham.mercantile@hmcts.gsi.gov.uk>,
        hearings <hearings@birmingham.countycourt.gsi.gov.uk>,
        "Catherine.Naylor@wragge-law.com" <Catherine.Naylor@wragge-law.com>,
        "daniel.chumbley" <daniel.chumbley@hsbc.com>,
        Claim A07YQ334 <Claim.A07YQ334@bakermckenzie.com>,
        "Melrose, Steve" <SMelrose@gibsondunn.com>,
        "Young, Alexander James" <alexander.james.young@citi.com>,
        Rachel Falconer <Rachel.Falconer@mablaw.com>
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To His Honour Judge McKenna,

Dear Sir,

there was a critical press release today regarding precious metal price manipulation - which is reported on by Reuters, Bloomberg, The Wall Street Journal and others. A URL is http://uk.reuters.com/article/2015/09/28/uk-precious-manipulation-swiss-idUKKCN0RS0IZ20150928which can be obtained by a web search for 'Reuters gold price manipulation". The article from Reuters tells us Weko, the Swiss regulator, have today announced an investigation into UBS, Deutsche Bank, HSBC and Barclays for gold price manipulation. Of greater interest is Bloomberg's report http://www.bloomberg.com/news/articles/2015-09-28/swiss-competition-body-probes-banks-in-precious-metals-trading which does not mention WEKO, but critically includes this paragraph:

"UBS was granted conditional leniency in the Swiss case, according to a person familiar with the matter. This means the Zurich-based bank may escape punishment because it came clean early and cooperated with regulators. UBS said in May that it won immunity from criminal fraud charges in a U.S. Justice Department investigation into precious metals-trading misconduct."

UBS in its filed defence refused to submit a sensible reply, insisting that it had not been served, while at the same time admitting that it had been served. The paradox is resolved by this Bloomberg article, which tells us they did not want to be in a position to create liability by admitting or denying anything. They have apparently admitted to the US Justice Department that they are guilty of gold price manipulation, and won some sort of immunity.

I think if UBS, or any of the defendants want to contest the set aside application, then UBS needs to clarify what was said to the US Justice Department and to WEKO. Someone's neck needs to be on the line if they are telling the courts one thing and the regulators the contrary.

Attachment 3 – UBS's apparent admission of confession

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  Received: from luxsmtp2.gibsondunn.com (HELO luxsmtp1.gibsondunn.com)
                            ([195.33.74.141])
  by esa2.gibsondunn.iphmx.com with ESMTP/TLS/AES128-SHA; 30 Sep 2015 05:40:28
-0700
Received: from LUXHTS02.Gibsondunn.net (10.144.95.122) by
 luxsmtp1.gibsondunn.com (192.168.144.58) with Microsoft SMTP Server (TLS) id
 14.3.224.2; Wed, 30 Sep 2015 14:40:27 +0200
Received: from LUXMBX02.Gibsondunn.net ([fe80::9dc7:1eb7:ecdb:7d1c]) by
 LUXHTS02.Gibsondunn.net ([fe80::14a:5645:27ec:839b%18]) with mapi id
 14.03.0224.002; Wed, 30 Sep 2015 14:40:27 +0200
From: "Melrose, Steve" <SMelrose@gibsondunn.com>
To: "birmingham.mercantile@hmcts.gsi.gov.uk"
        <birmingham.mercantile@hmcts.gsi.gov.uk>, hearings
        <hearings@birmingham.countycourt.gsi.gov.uk>
CC: "Catherine.Naylor@wragge-law.com" <Catherine.Naylor@wragge-law.com>,
        daniel.chumbley <daniel.chumbley@hsbc.com>, Claim A07YQ334
        <Claim.A07YQ334@bakermckenzie.com>, "Young, Alexander James"
        <alexander.james.young@citi.com>, Rachel Falconer
        <Rachel.Falconer@mablaw.com>, "TheAbstraction ."
        <mark.anthony.taylor@gmail.com>, County Court Litigation
        <countycourtlitigation@linklaters.com>
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Dear Judge McKenna,

We act for the Fifth Defendant, UBS AG. The Claimant, Mr Taylor, in his email to the Court of 28 September 2015, makes submissions in relation to the merits of His Honour Judge Simon Brown QC's decision to strike out his claim. In our client's respectful submission the matters raised by Mr Taylor in his email are not relevant to his application to this Court to set aside the CRO. Our client's position regarding the merits of Mr Taylor's set aside application is set out in Linklaters' correspondence to you of 18 and 23 September 2015 on behalf of the defendants, including UBS.

Yours faithfully,

GIBSON DUNN

Attachment 4 – My letter to Judge McKenna explaining why a set aside application was appropriate.

Date: Wed, 23 Sep 2015 16:26:20 +0100
Delivered-To: mark.anthony.taylor@gmail.com
Message-ID: <CANCCXD40-7g3153sa-W0_578bLTpZn1R=0feGTD-6WBy=voeHg@mail.gmail.com>
Subject: Re: Claim B40BM021
From: "TheAbstraction ." <mark.anthony.taylor@gmail.com>
To: County Court Litigation <countycourtlitigation@linklaters.com>
Cc: "birmingham.mercantile@hmcts.gsi.gov.uk"
<birmingham.mercantile@hmcts.gsi.gov.uk>,
hearings <hearings@birmingham.countycourt.gsi.gov.uk>,
"Catherine.Naylor@wragge-law.com" <Catherine.Naylor@wragge-law.com>,
"daniel.chumbley" <daniel.chumbley@hsbc.com>,
Claim A07YQ334 <Claim.A07YQ334@bakermckenzie.com>,
"Melrose, Steve" <SMelrose@gibsondunn.com>,
"Young, Alexander James" <alexander.james.young@citi.com>,
Rachel Falconer <Rachel.Falconer@mablaw.com>
Content-Type: multipart/alternative; boundary=001a1148fe608d7b7905206bbc7e

Dear Judge McKenna,

I have very limited legal knowledge on the merits of appeals vs set asides, or what happens when there is a conflict between the two, but from what I have read appeals in civil action generally do not take into account new evidence, whereas set aside applications can do so. I have also read that set aside applications are relevant when defendants are shown to have misled the court. I guess the Court of Appeal resources are more precious than those of the High Court, so where it is obvious a court has been misled/perverted then a set aside judgement would be appropriate.

At this stage I am only seeking permission to appeal, so the full appeal court procedure has not yet been assigned. A set aside application would be ultimately cheaper for the taxpayer. A major part of the failing of the hearing was Judge Simon Brown QC's refusal to force disclosure of the BaFin report - which was released to the general public by the press the day after the hearing. This showed that the defendants' claim that such a report was irrelevant was dishonest. It was relevant because it discredited the first and second witness and it discredited their audits. They could not have conducted honest Libor audits while providing the Bundesbank with fake Libor data. The fact that the defendants have refused to substantiate their gold manipulation audit while keeping back the BaFin report was to hide that my concerns of that audit are well founded and quite obviously their refusal to disclose the report was done to pervert the court verdict. Thus the BaFin report can be taken as new evidence that shows my notices to admit facts were pertinent and not irrelevant - contrary to the pleadings of the defendants, and probative, rather than meritless, contrary to the naked assertion of Judge Simon Brown QC. Given this new evidence, that shows the hearing was perverted by perjury and bias, a simple set-aside order would be the most efficient means for the court to redress the situation. The defendants should not be rewarded for reticence/bare-denials, evasion, dishonesty and recidivism.

Given that the defendants have lied about the facts, and not presented substantial evidence, they are in no position to argue which Laws do or do no apply. Had the defendants been running open and honest public audits I would not be needing to sue them in court. They invited their own litigation.

Attachment 5 – Email to which BaFin report was attached as delivered to Judge McKenna

MIME-Version: 1.0
Received: by 10.79.19.133 with HTTP; Sun, 20 Sep 2015 12:07:01 -0700 (PDT)
In-Reply-To:
<9B35A18A7F2BD94D8CA9738545B21FE508D4EB96@EREPEX11.practice.linklaters.net>
References:
<8B5F73A1194451468C7C54591C19D02C15B245B9@EREPEX12.practice.linklaters.net>
<CANCCXD4O1DX7D7RTMwJxyJC6Rb1Qp+bbdZOiBpJJix_RgxdMqw@mail.gmail.com>
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<CANCCXD6H4kxQh-MnQ4uG-h5_AwLs7kVQTwPVykh1B0M=yi-Wbw@mail.gmail.com>

<9B35A18A7F2BD94D8CA9738545B21FE508D4EB96@EREPEX11.practice.linklaters.net>
Date: Sun, 20 Sep 2015 20:07:01 +0100
Delivered-To: mark.anthony.taylor@gmail.com
Message-ID: <CANCCXD7vUtRsKi0uCpum5o-p6tWqeEZGw6Fi_tKZgKgXMoDA2w@mail.gmail.com>
Subject: Re: Claim B40BM021
From: "TheAbstraction ." <mark.anthony.taylor@gmail.com>
To: County Court Litigation <countycourtlitigation@linklaters.com>
Cc: "birmingham.mercantile@hmcts.gsi.gov.uk"
<birmingham.mercantile@hmcts.gsi.gov.uk>,
"Catherine.Naylor@wragge-law.com" <Catherine.Naylor@wragge-law.com>,
"daniel.chumbley" <daniel.chumbley@hsbc.com>,
Claim A07YQ334 <Claim.A07YQ334@bakermckenzie.com>,
"Melrose, Steve" <SMelrose@gibsondunn.com>,
"Young, Alexander James" <alexander.james.young@citi.com>,
Rachel Falconer <Rachel.Falconer@mablaw.com>,
hearings <hearings@birmingham.countycourt.gsi.gov.uk>
Content-Type: multipart/mixed; boundary=001a114e2b5a394c060520327880

Dear Judge McKenna,

I wish to clarify why I have submitted an application to set aside the CRO both in an appeal procedure and also in a set aside application. I am aware that there are significant costs against me which I wished to challenge. I did not want the defendants to chase me for those costs while I was following up an appeal procedure. I made an attempt to nullify/stay the costs in a previous application, but this was rejected because I was not entitled to fee remission - as long as the CRO is operative. Birmingham court staff advised me to contest the CRO, which would entitle me to fee remission in further applications for court orders. Once the CRO is set aside then I can stay the costs.

At your discretion, if you have time, I would like to direct your attention to the third notice to admit facts which was issued to the defendants, but which I believe was not answered before or during the hearing. Fact 5 of this notice was asserted thus: '*Deutsche Bark's Libor manlpulation more often understated its borrowing costs than overstated them*.' Now in the hearing Judge Simon Brown called the notices to admit facts vexatious, but if you look at the BaFin report, which I have attached, page 3, you will see that BaFin officials suspected Deutsche Bank of understating its Libor rates for the purpose of misrepresenting its solvency issues and that Anshu Jain, the first defendant, was either aware of the fraud of aware of its possibility. The N266 notice was delivered before I had read the BaFin report, which only became available to me after the hearing. This was the report I demanded the defendants disclose, which they refused to disclose - their grounds was that it was irrelevant.

Clearly it was not irrelevant. Thus my notice to admit facts, rather than being meritless and vexatious was actually probative and pertinent. Had the judge not dismissed the N266 notice as vexatious, and forced the defendants to disclose the BaFin report before the hearing he would not have been in a position to deny the explanation of motive in the Particulars of Claim - that gold price manipulation is a form of systemic insolvency misrepresentation. The facts are the explanation is plausible, the notices to admit facts had merit, as did the demands to cross-examine witnesses, as did the claim as a whole. It is absurd for the defendants to assert the claim is without merit while refusing to substantiate their gold manipulation audit.

I would like to thank you for your time and consideration.

Yours faithfully,
Mark Anthony Taylor