

IN THE ROYAL COURTS OF JUSTICE

Case No: 3216/2009

Chancery Division
Strand
London
WC2A 2LL

Monday, 22nd January 2010

M on 11

Before:
DEPUTY BANKRUPTCY REGISTRAR BRIGGS

BETWEEN:

FINANCIAL SERVICES AUTHORITY CR

and

JEFFREY LAMPERT

Transcript from a recording by Ubiquis
Cliffords Inn, Fetter Lane, London EC4A 1LD
Tel: 020 7269 0370

JUDGMENT
(Approved)

DEPUTY BANKRUPTCY REGISTRAR NICHOLAS BRIGGS:

1. This is an application pursuant to CPR 31 17. The rule provides that an application has to be supported by evidence and the Court may make an order under the rule where the documents of which disclosure are sought are likely to support the case of the applicant or adversely affect the case of one or the other party to the proceedings and disclosure is necessary in order to dispose fairly of the claims or to save costs.
2. During the course of submissions made by Mr Lampert who appears before me, he has made clear that his application is to assist himself defend an application made by Lloyds Bank to petition for his bankruptcy and at the heart of that is a dispute arising between Lloyds TSB and Heritage, the calling in of a debt owed by Heritage Plc to Lloyds TSB and as a result of a failure to recover the full sums due to Lloyds TSB, Lloyds TSB then sought to recover sums due from Mr Lampert under a guarantee which they had held.
3. Mr Lampert's complaint and/or defence and/or concern is that there was an under recovery made by Lloyds Bank when assets of Heritage were sold by the Bank, and the failure to obtain full or proper value exposed him personally to a claim under a personal guarantee what guaranteed the debts of Heritage Plc. The application itself seeks disclosure of all documents held at all levels of the Bank and have not been released. He applies under the Freedom of Information Act and cites in his application form numerous Freedom of Information Act sections and says that these requests all relate to an FSA internal memo to David Strachen dated the 14th June 2007.
4. The memo dated the 14th June 2007 to David Strachen merely recites the fact that Lloyds TSB called in Mr Lampert's guarantee for debts of Heritage Plc, but it is alleged by Mr. Lampert that the assets were recovered in an unlawful manner. He complains that

Lloyds TSB will not supply details of the costs incurred. Mr. Lampert has been before the Courts before in relation to this issue. Recourse sought by Mr Lampert through the Courts, BCSB and DTI have all been unsuccessful.

5. As far as the FSA are concerned they say that that application is far too wide. It is too wide because it does not fall within the ambit of CPR 31. 17. In a witness statements provided by Joel Christopher Scott, an employee of the FSA, dated the 16th March 2010 he says, that:

‘As I understand it Mr Lampert continues to believe that the FSA holds more information than the FSA has provided to him in relation to a investigation’, (which he puts in quotation marks), ‘Which he believes the FSA have carried out into his complaint. A consideration of Mr Lampert’s complaint was limited and all documents setting this out have been provided to him. I have explained that there is no investigation in numerous telephone calls to Mr Lampert and this has been explained in letters to Mr Lampert from Mr Phillip Robinson, the Information Protection Officer dated the 15th December 2008 and also in a letter to his MP, Dr Vis.’

6. Documents have been provided to Mr. Lampert. There has been a letter from Mr. Lampert's MP, Dr Vis. The FSA have responded to various complaints made. In his witness statement Mr Scott says at paragraph 10:

‘Following a phone call on the 2nd August 2007 Mr Christopher Boyce, head of public affairs and accountability to the episode wrote to Dr Vis summarising the note of a record which has now been disclosed to Mr Lampert.’

7. That note is dated the 1st August 2007. It records the following:

‘I spoke with’, and it is a redacted version so it has been blanked out, ‘In respect of Lloyds TSB involvement in the case of Mr Jeffrey Lampert and Heritage Plc currently being pursued by Rudi Vis MP. He advised me that they had been handling the case for some time and is very familiar with it. He advised that the banks do not have to wait for receivership to instigate it before calling upon security, which they could do in any order. In this case Lloyds TSB called in on the guarantee while the receivership was still running but at a time when there is indication there would be a significant shortfall between the assets and liabilities. There was still a shortfall of £1 million. There has been some difficulty in tying up expenditure figures between them and the liquidators but the difference of £35,000 has now been reconciled. The courts have been involved five times and each time they have ruled against Mr Lampert.’

8. In paragraph 11 of Mr Scott's witness statement he goes on to say that:

'During the course of dealings with numerous enquiries from Mr Lampert or MPs on his behalf I have not seen any wider consideration of an investigation of his complaint documented. These further inquiries have been responded to consistently [inaudible] letter.'

9. Lastly, in his statement he says at paragraph 14:

'Following the correspondence with the Information Commission and in relation to the two FOI requests the information had been withheld under the Freedom of Information Act has been considered under the Data Protection Act. Any information which we hold relating to this matter and which we were able to disclose to Mr Lampert under either of the above Acts has now been provided. This would have been included:
a) Such information if we held any of the type set out in the requests i.e. all documentation held by the FSA following their internal memo of the 14th June 2007.'

10. So it is the case of the FSA on sworn evidence state that they have provided all the necessary information relating to the memo dated the 14th June 2007. That is directly relevant to the very application which Mr Lampert now pursues before the Court. In my judgment there is absolutely no point in the Court making an order which has no effect. The Court does not act in vein. In this case I have been given evidence that the information that is sought before the Court today has already been disclosed. The court would be acting in vein if it were to make an order to say disclose it again; he has all the information that the FSA can give.

11. As regards the terms of CPR 31 17. There are two types of documents which are essentially being sought. Those documents which relate to the dispute between Lloyds TSB and Heritage Plc and those are the party to party type of documents, and will be relevant to the issues that Mr Lampert now faces. The only documents, as I have said, that relate to the Lloyds TSB and Heritage Plc issue have already been disclosed: they relate to the telephone memorandum. The second category of documents the FSA say they do not have.

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13. It seems to me that it would not be fair or save any costs to make a disclosure of the documents which have already been disclosed and would have no particular relevance to the issues now raised by Mr Lampert. The truth of the matter is that Mr Lampert simply does not trust what the FSA have said. He believes there are more documents and they should be disclosed. I am not prepared on this application to go behind the witness statement of Mr Scott and following *National Westminster Bank v Daniels*, I do not do so. The evidence given by the FSA is sworn evidence by an employee of the FSA which on this application I accept. There is no evidence to allow me to go behind it.

14. I therefore dismiss the application I am sorry to disappoint Mr Lampert.

End of Judgment.