IN THE HIGH COURT OF JUSTICE
IN BANKRUPTCY

No. 3216 of 2009
Financial Services Authority
Joel Christopher Scott
First witness statement

IN THE MATTER OF : JEFFERY WOLFE SIMON LAMPERT

WITNESS STATEMENT OF JOEL CHRISTOPHER SCOTT

I, **JOEL CHRISTOPHER SCOTT,** employee of the Financial Services Authority (the "FSA"), 25 The North Colonnade, Canary Wharf, London, E14 5HS, **WILL SAY AS FOLLOWS:**

1. I am a Team Leader in the Information Access Team (the "IAT") which is part of the Knowledge Management Department. I have held this role since January 2006. Amongst other things the IAT co-ordinates responses to requests made under the Freedom of Information Act 2000 ("FOIA") and subject access requests made under the Data Protection Act 1998 ("DPA"). It also deals with any subsequent complaints to the Information Commissioner (the "Commissioner") and the Information Tribunal (the "Tribunal") in FOIA cases. My team is responsible for co-ordinating internal reviews of FOIA requests, the FSA's response to complaints to the Commissioner and is also involved where the FSA is a party to appeals before the Tribunal. Another of my team's responsibilities is to respond to subject access requests made under the DPA.

2. By way of background, the FSA is the body established by the Financial Services and Markets Act 2000 ("FSMA") to regulate the UK financial services industry. It regulates a wide range of firms providing financial services, including banks, building societies, credit unions, insurance companies, stockbrokers and financial advisers. The FSA has the following regulatory objectives (set out in sections 3-6 of FSMA):

   a. to maintain market confidence in the financial system;

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b. to promote public awareness of the financial system;

c. to secure the appropriate degree of protection for consumers; and

d. to reduce the extent to which it is possible for a business carried on by a regulated person, or by an unregulated person (i.e. acting in breach of FSMA), to be used for a purpose connected with financial crime.

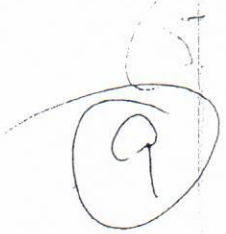
The purpose of this statement is to support the FSA's objection to Mr Lampert's Ordinary Application for disclosure of documents against the FSA filed on 16 February 2010.

3. Save where otherwise indicated, I make this statement from matters within my own knowledge, and (where indicated) by reference to specific documents exhibited to this statement.

4. I understand from my contacts with Mr Lampert that he considers that he has a claim against Lloyds Banking Group ("Lloyds") concerning the way in which Lloyds enforced its security as a result of the bank calling in loans it had made to Heritage plc, Mr Lampert's company, some years ago. Mr Lampert complained to the FSA, as Lloyds' regulator, about his treatment. Mr. Lampert is convinced that, as a result of his complaint, the FSA investigated Lloyd's conduct, prepared a report of that investigation, which would support his claim against bank, but has persistently refused to provide the report to him. As I will explain below, the FSA did not investigate Mr Lampert's complaint, has not prepared any report as a result and has not therefore withheld any information from him which could be of any relevance to the present proceedings.

5. In addition to Mr. Lampert, his MPs Dr Rudi Vis and Alan Keen have made a number of requests for information from the FSA in relation to his complaint. These included a request for all the information the FSA held about his complaint. Mr Lampert has complained to the Information Commissioner about the FSA's responses to two of his requests for information.

6. As a result of Mr Lampert's information requests the FSA provided him with all the information we hold in relation to his complaint (including the documents which are



exhibited to this statement in a bundle marked "JCS 1". Page numbers in this statement are to pages in JCS 1) except for junior FSA staff names he was not aware of and the names of individuals at Lloyds, which were blanked out or "redacted". Mr Lampert has not challenged the redaction of names with the Information Commissioner.

7. 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 an 'investigation', which he believes the FSA carried out into his complaint. The consideration of Mr Lampert's complaint was limited and all documents setting this out have been provided to him. I have explained there was no 'investigation' in numerous phone calls to Mr Lampert and this has been explained in a letter to Mr Lampert from Mr Philip Robinson, Information Protection Officer, dated 15 December 2008 (pages 7 to 8) and in a letter to Dr Vis MP dated 5 December 2008 (page 6) in response to a Freedom of Information request.

8. The documents provided to Mr Lampert set out the consideration of Mr Lampert's complaint before responding to Dr Vis MP's letters of 7 June 2007 (page 1) and 2 August 2007 (page 2) to the FSA. Following Dr Vis's letter of 7 June 2007 (page 1) the supervisory team wrote a memo dated 14 June 2007 (page 4) to David Strachan, then the FSA's Director in charge of the supervision of Lloyds, setting out three potential options on how to proceed.

"1 We can, of course, go back to him repeating our stance, but I do not believe for one moment that will satisfy Dr Vis.

2. We have the option of taking it to the Banking Sector team and having it consider doing some work on banking practices in this area. From this we would know whether, in reality, banks in general are open to criticism or whether they do operate properly within insolvency legislation and do seek the best outcome for themselves and the customer. While this would not directly address the matter complained of, it would be within our remit under Principles 1, 3 and 6

3.Alternatively, or perhaps as well, I could pursue this individual matter with LTSB so that we get both sides of the story. I realise we don't normally take up individual complaints, but there have been exceptions in the past."

9. Following this memo a phone call took place on 2 August 2007 between the FSA supervisory team and a member of the legal team at Lloyds as described in the third

option in the memo of 14 June 2007. This call is recorded in a 'note for record' (page 5).

10. Following the phone call on 2 August 2007 (page 5), Mr Christopher Boyce, Head of Public Affairs and Accountability at the FSA, wrote Dr Vis MP a letter dated 06 August 2007 (page 3) summarising the 'note for record' and explaining that:

"We have made further enquires into this case and cannot conclude that Lloyds TSB Bank plc has acted unfairly or in an illegal manner. ...Furthermore, nothing arising from our review persuades us that there are systemic problems in respect of the dealings of banks with guarantors that would justify wider work by the FSA."

11. During the course of dealing with the numerous enquires from Mr Lampert or MPs on his behalf, I have not seen any wider consideration or 'investigation' of his complaint documented. These further enquires have been responded to consistently with Mr Boyce's letter dated 06 August 2007 (page 3).

12. In the response to the internal review of FOI0880 from Mr Philip Robinson, the FSA's Information Protection Officer, dated 15 December 2008 (pages 7 to 8) Mr Lampert was advised that no investigation was undertaken, and in a number of conversations I have explained to Mr Lampert that there was no 'investigation' by the FSA into his complaint and therefore no report was ever produced. I have also explained that we had given Mr Lampert all the information about his complaint that we could provide to him under the Freedom of Information Act or the Data Protection Act. He was also advised in a letter from Mr Robinson of 22 April 2009, that any requests made under FOIA which were the same or substantially similar to those which the FSA had already dealt with may be regarded as repeated requests and may not be responded to.

13. The FSA has also responded to two requests under the Freedom of Information Act submitted by Dr Rudi Vis MP (FOI1078 dated 11 November 2008 and FOI1103 dated 16 December 2008) and one FOI request submitted by Mr Alan Keen MP (FOI1097 dated 28 November 2008) on this matter. Both Dr Rudi Vis MP and Mr Alan Keen MP were also advised that no 'investigation' took place into Mr. Lampert's complaint.

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14. Following correspondence with the Information Commissioner in relation to the two FOI requests, the information that had been withheld under the Freedom of Information Act was then 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 already been provided. This would have included any such information, if we held any, of the type set out in his requests i.e. "all documentation held by the FSA following their internal memo of 14 June 2007 headed Dr Rudi Vis MP and Heritage plc".

15. Mr Robinson, wrote to Mr Lampert following the internal review of FOI1144 on 22 April 2009 (page 9) and explained that "*... the FSA have corresponded extensively with you and your MP on the issue of your complaint about Lloyds/Heritage plc over some years now. We consider we have reached the point where there is no more we can do for you, and that further correspondence on the subject will not serve any useful purpose. We have therefore instructed our staff not to reply to further correspondence from you and to terminate telephone calls should you ring referring you to our earlier correspondence. We are copying this letter to Dr Rudi Vis.*"

16. Even if a report of an investigation by the FSA into Lloyds' conduct was relevant to Lloyds' current bankruptcy petition against Mr Lampert (as to which I express no view), there was no investigation and no report was prepared. I would therefore invite the Court to dismiss the application for disclosure against the FSA.

I believe that the facts stated in this witness statement are true.

Signed: Joel Scott

JOEL CHRISTOPHER SCOTT

Date 16/03/2010

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