**EMPLOYMENT TRIBUNALS**

Claimant: Mr P Carlier
Respondent: Lloyds Bank PLC

Heard at: London Central (by CVP)

On: 16 and 17 January 2024
Before: Employment Judge Mr J S Burns

Representation
Claimant: In person
Respondent: Mr R Dennis (Counsel)

## JUDGMENT

1. The ET1 does not contain any matters that fall within the Tribunal's statutory jurisdiction;
2. The Claimant's application to amend his claim is refused.
3. The claim is struck out.

## REASONS

1. The Claimant worked for the Respondent from 1/7/12 to 23/1/2015 as an FX Spot Trader. The Claimant brought a previous ET claim under case number 2200564/2015 against the Respondent on 17/1/2015. In those proceedings, the Claimant claimed ordinary unfair dismissal, and that he had been subject to detriments and automatically unfairly dismissed for making protected disclosures.

2. This claim was heard by Employment Judge Tayler (as he then was), Mr A Baker and Mr S Ferns. Judgment was sent to the parties on 8/12/2015. The decision was that the reason for dismissal was redundancy and that the Claimant had been unfairly dismissed but that his whistleblowing claim failed because he had not made protected disclosures. A remedy judgment issued by consent was sent to the parties on 15/4/16. The Respondent was ordered to pay the Claimant the sum of £76,574 which represented the maximum capped damages for ordinary unfair dismissal at that time.

3. The Claimant now seeks to contest the finding of Judge Tayler and his colleagues insofar as their findings about the reason for dismissal is concerned. He contends that his claimed PDs should have been recognised as such and he found to have been automatically unfairly dismissed. He says that the 2015 judgment was a "miscarriage of justice" which has deprived him of damages exceeding £7million which he would have been able to recover as uncapped damages under section 103A ERA 1996. He also says that he has a new claim to make against the Respondent for post-termination whistleblowing detriment.

4. The ET1 in the instant matter was presented on 18/7/23 against the Respondent, the Financial Conduct Authority ("FCA") and "Bank of England / Prudential Regulation Authority" ("PRA") on 18/7/23.

5. The Claimant's claims against the FCA and PRA were rejected by EJ E Burns on the basis that, *"the Tribunal has no jurisdiction to hear your complaints against these two potential respondents*". The Claimant applied for reconsideration of the rejection which application was dismissed by REJ Freer on 12/1/24. Hence the extant claim is against the Respondent only.

6. The Case Management Summary dated 13/10/23 contains a list of the issues to be dealt with in this 2-day OPH. The issues are set out below in bold underlined text.

7. The documents before me were : Claimant's bundle of 193 pages, Claimant's supplementary bundle of 25 pages, Respondent's bundle of 124 pages, Claimant's skeleton argument, Respondent's skeleton argument, joint authorities bundle, CMO of PH on 13/10/23, witness statement of Claimant dated 10/12/23, Claimant's undated "*Application to clarify or amend the claim*" served on 15/1/24, "*List of Additional New Protected Disclosures*" served on 17/1/24 and letter dated 12/1/24 communicating REJ Mr A Freer's refusal of reconsideration.

8. Numerous members of the public and representatives of the press observed the hearing. At the request of the latter I directed the Respondent's solicitors to send them copies of all the above documents, subject however to the redaction of material which the Respondent contended was privileged (because it was written without prejudice) and subject to the proviso that the recipients would delete it when the hearing ended.

9. I adjourned for two-and-a-half hours to read the documents before resuming to hear oral submissions. The Claimant was not cross-examined on his witness statement. The hearing was conducted in public in relation to all matters.

10. The Claimant's claims are contained in the ET1 Form which was presented on 18/7/23. He did not file any attachment with the form, although the form stated in section 15 "*I will provide further information in due course"*. He served a further document on 7/8/23 entitled "Grounds of Claim-Supplementary document to ET1 form" (the Addendum").

11. As explained by EJ Elliot in paragraphs 11 and 12 of the CMO dated 13/10/23 "*The claimant sought to rely on an "Addendum" to his claim in a document dated 7 August 2023. The respondent said that this was an application to amend. I explained to the claimant that there is no process in the Employment Tribunal for an "Addendum" to the claim which was not presented at the same time as the ET1. The ET1 is the claim (see Chandok v Tirkey EAT/0190/14). There may be an order made for further particulars or they can be given on a voluntary basis by consent, but to the extent that new matters are added to the claim in the ET1, this is an application to amend."*

12. The Addendum is a long document in a narrative style which does not set out any cause of action clearly.

13. On 15/1/24 the Claimant produced an undated "*Application to Amend and Clarify the Claim*".

14. During the hearing on 16/1/24 he said he wished his amendment application to incorporate the contents of both the Addendum and the "Application to Amend and Clarify the Claim" document into his claim. Shortly before the hearing resumed today on 17/1/24 the Claimant served a further document entitled "List of Additional New Protected Disclosures". He confirmed today that he did not wish to rely on the Addendum document but did want to rely on the "Application to Amend and Clarify the Claim" and "List of Additional New Protected Disclosures" for purposes of his amendment application.

**(i) Does the ET1 contain any matters that fall within the tribunal's jurisdiction?**
**(ii) Whether the tribunal has jurisdiction to hear claims of (i) concealment of evidence, (ii) perjury, (iii) breach of data protection legislation or (iv) perverting the course of justice.**
**(iii) Whether the tribunal has jurisdiction to hear the claim whether under sections 48 or 111 of the ERA 1996 or any other applicable legislation. C said he received new information in June 2022.**

15. These issues are interrelated and therefore taken together.

16. For purposes of my consideration of the first three questions I consider the ET1 alone in its unamended form.

17. The ET1 contains details of the Claimant's claims against the Respondent. Page 6 states that: "*In addition to new whistleblowing claim, claim is also specific to significant concealment of evidence and perjury during prior Tribunal proceedings*." This refers to a "*new whistleblowing claim*". However, the Claimant does not provide details of any new claim for protected disclosure detriment anywhere in his ET1 Form.

18. Pages 6-8 contain the following claims against the Respondent: "*concealment of evidence and perjury during prior Tribunal proceedings"; "I have only much more recently obtained a substantial cache of significant documents and evidence, all of which were previously and unlawfully concealed from me and the Tribunal in 2015 by one or more of the three Respondents against whom this new claim is being made ... Concealment, dishonesty and detriment that continue today ..." ; The Respondent concealed significant relevant documents and information from me and Tribunal during those 2015 proceedings, and that were highly relevant to my 'pleadings', in breach of Tribunal rules, UK data law, UK law specific to perjury and perversion of justice, PIDA and specific Tribunal order made at a preliminary hearing ...; "the Respondent also concealed significant documents and information from me and Tribunal in 2015 that they knew to be relevant ... with intent to limit the scope of what I was able to 'plead' in 2015, and so further pervert the course of justice and unlawfully deprive me of 'protected' whistleblower status"* .

19. There is no legislation conferring jurisdiction on the Tribunal to hear claims for concealment of evidence, perjury, dishonesty, breach of UK data law or perversion of justice.

20. What the Claimant is seeking as a matter of substance in his unamended claim is the overturning of the 2015/6 judgment so as to obtain a finding that the reason for his dismissal was his making of protected disclosures.

21. An ET judgment can be revoked/altered following a successful application for reconsideration. The Claimant told me that after he received the 2015 judgment he applied for reconsideration to EJ Tayler, who refused the application as it was regarded as having been made too late.

22. An ET judgment can be overturned/altered by means of an appeal to the EAT or higher court. No such appeal was made against the 2015 judgment.

23. Apart from the methods described in the two previous paragraphs, an ET judgment can be set aside if it was procured by fraud, including fraudulent concealment. However In Takhar v Gracefield Developments Ltd [2020] AC 450, Lord Sumption JSC (with whom Lords Hodge, Lloyd-Jones and Kitchin JJSC agreed) held that: "60. *An action to set aside an earlier judgment for fraud is not a procedural application but a cause of action. ... 61. The cause of action to set aside a judgment in earlier proceedings for fraud is independent of the cause of action asserted in the earlier proceedings. It relates to the conduct of the earlier proceedings, and not to the underlying dispute*." Likewise Lord Briggs JSC held that: "81. *The starting point is clearly to recognise that the right to have a judgment set aside for fraud is a distinct cause of action recognised by the common law, like a right to set aside a contract obtained by fraud ...*"

24. EJ R Lewis in the Employment Tribunal in Adenekan v British Gas Trading Limited (ET Case No. 3301095/2021, unreported, 8 April 2022), ruled that: '*The Employment Tribunal is a creature of statute and has only jurisdiction to hear such cases as statute requires or authorises it to do. A civil claim based on the cause of action summarised by Lords Sumption and Briggs is not a claim which the Employment Tribunal has been granted power to hear. This claim cannot proceed in an Employment Tribunal.*"

25. I am not bound by this ruling but I find it persuasive and proceed on the basis that it is correct.

26. The Claimant also refers to "*breach of Tribunal rules ... and specific Tribunal order*". Those are allegations of non-compliance with the ET Rules 2013 and the Order for disclosure made in the 2015 Claim, which was finally determined by the Tribunal's judgments in 2015 and 2016. They are not independent causes of action within the Tribunal's jurisdiction.

27. Finally, the Claimant refers to "*breach of ... PIDA*", ie the Public Interest Disclosure Act 1998. However: that Act only amended the ERA 1996 to add the relevant whistleblowing provisions, and it does not itself confer any jurisdiction on the Tribunal; and the Claimant does not provide details of any new claim for protected disclosure detriment anywhere in his ET1 Form.

28. The unamended ET1 therefore does not contain any matters that fall within the Tribunal's jurisdiction.

**(iv) In so far as C seeks to challenge the decision of the tribunal in case number 2200564/2015, whether he is prevented from doing so by the doctrine of res judicata and/or issue estoppel and the rule in Henderson v Henderson 1843 3 Hare 100.**

29. In Virgin Atlantic Airways Ltd v Premium Aircraft Interiors UK Ltd [2014] AC 160, Lord Sumption JSC held that "17. *Res judicata is a portmanteau term which is used to describe a number of different legal principles with different juridical origins. ... The first principle is that once a cause of action has been held to exist or not to exist, that outcome may not be challenged by either party in subsequent proceedings. This is "cause of action estoppel". It is properly described as a form of estoppel precluding a party from challenging the same cause of action in subsequent proceedings. Secondly, there is the principle, which is not easily described as a species of estoppel, that where the claimant succeeded in the first action and does not challenge the outcome, he may not bring a second action on the same cause of action, for example to recover further damages ... Third, there is the doctrine of merger, which treats a cause of action as extinguished once judgment has been given on it, and the claimant's sole right as being a right on the judgment. Although this produces the same effect as the second principle, it is in reality a substantive rule about the legal effect of an English judgment, which is regarded as "of a higher nature" and therefore as superseding the underlying cause of action* ..."

30. I agree with the Respondent's primary submission that res judicata does not really arise in relation to the unamended claim because the Claimant's ET1 does not contain any cause of action within the Tribunal's jurisdiction, whereas the 2015 claim did deal with claims within jurisdiction. However, if the ET1 did bring claims against the Respondent which were within its jurisdiction, seeing that the purpose of such claims is to revoke or change the finding in 2015 as to the reason for dismissal, and claim further damages, then all three of the principles referred to by Lord Sumption would be engaged such that the claim would be precluded.

**(v) Whether the claim or any part of it should be struck out because it is scandalous, vexatious or has no reasonable prospect of success.**

31. Rule 37(1)(a) of the ET 2013 rule provides that: *"(1) At any stage of the proceedings, either on its own initiative or on the application of a party, a Tribunal may strike out all or part of a claim or response on any of the following grounds— (a) that it is scandalous or vexatious or has no reasonable prospect of success;"*

32. The unamended claim has no reasonable prospect of success for the reasons set out above It is in the interests of justice, and it furthers the overriding objective, to strike out the claim.

(**vi) Dependent upon the outcome of the above, any application by C to amend his claim as per his Addendum document of 7 August 2023 including whether C is precluded from**

**relying on without prejudice correspondence or communications with the ACAS Conciliation Officer**

33. As the claim has been struck out, there is nothing to amend, but for completeness I consider the application on its merits also.

34. The Claimant confirmed that the new claim he wished to make against the Respondent was only a claim under section 47B ERA 1996 for post-termination detriment because he had made protected disclosures (other than those claimed PDs which were found not to be PDs in the 2015 case).

35. The possibly *"without prejudice correspondence or communications with the ACAS Conciliation Officer*" is not a matter I have to consider because references to these appear in the Addendum which the Claimant does not wish to rely on, and such references do not appear in the "Application to Amend and Clarify the Claim" and in the "List of Additional New Protected Disclosures" which latter two documents constitute the documentary formulation of the application to amend.

36. These two documents set out the (new) claimed protected disclosures as pleaded by the Claimant. For ease of reference I set these out in Schedule 1 to these reasons.

37. Without wishing to derogate from all the Claimant has written, (which I have read and discussed in some detail with the Claimant during the hearing) I summarise that the claimed new PDs consist of:

(i) Emails to the FCA for example on 9/7/2015, 15/7/2015 24/7/2015 6/9/2015 to expedite an investigation and report into various complaints which the Claimant had made to the FCA about alleged irregularities within the Respondent's FX department before the 2015 trial/liability judgment of his first claim. (The Claimant wished to expedite an investigation and report wanted the report for the trial because he believed it would strengthen his first claim and increase the likelihood that the 2015 Tribunal would find he had been dismissed for making PDs.)

(ii) complaining to the FCA after the 2015 trial, for example in October 2015, that its failure to complete its report had caused him to suffer "a miscarriage of justice" (ie the 2015 judgment)

(iii) complaining via a letter sent by Bivonas Law on 8/12/21 to Mr Nunn at the Respondent on 8/12/21, complaining that an internal investigation ("Operation Oban") carried out internally by the Respondent in 2013 and 2014 into the activities of its FX traders had culpably failed to find wrongdoing. (The relevance of this to the Claimant is that he claims that if the investigation had been carried out properly it would have found wrongdoing, and that such a finding would have strengthened his case at the trial in 2015).

(iv)complaining to Mr Bailey at the FCA on 17/2/22 about the FCA had concealed from the Claimant and tampered with the findings of an expert into a "Tesco fraud". (The Tesco issue and the Claimant's involvement in it was considered in detail in the 2015 trial).

(v) complaining to Mr Nunn for example in May and June 2022 about matters such as comments made about the Claimant by the Respondent's press officer to a journalist, (where the journalist referred to the fact that the ET 2015 judgment had not found that the Claimant was dismissed for whistleblowing) and claimed concealment of relevant facts in 2015.

(vi)complaining to Mr Nunn again on 18/10/22 that sackings of various employees namely Mr Dabral and Mr Henrikson in 2015 had been concealed from the tribunal in 2015, only put into effect after the judgment had been issued, and misrepresented to Bloomberg as having nothing to do with the Claimant's tribunal case. (The relevance of this to the Claimant is that he thinks that if he/the Tribunal had known before the trial about these the sackings that would have strengthened his case at the trial in 2015).

(vii) complaining to Mr Nunn and Mr Rose at the Respondent on 23/10/22 that Mr A Horsley (an internal investigator) had failed to carry out on Respondents behalf a proper investigation into the Claimant's complaint about the "Tesco fraud") in 2014/2015.

(viii) complaining to the FCA and the Claimant's MP in November 2022 about claimed false representations, fraud and concealment of evidence by the Respondent and the FCA.

38. The post-termination detriments which the Claimant wishes to claim he has suffered as a consequence of the claimed new PDs are set out in section 16 of his application and are for convenience are set out in Schedule 2 to these reasons

39. Without wishing to derogate from all the Claimant has written, (which I have read and discussed in detail with the Claimant), I summarise that the claimed detriments consist in the Claimant having suffered a 2015 judgment that he was dismissed for redundancy (rather than for whistleblowing as he had claimed), the consequent loss of money in the form of the uncapped damages he was unable to recover, the fact that the Respondent and others have subsequently relied on the 2015 judgment in describing the Claimant as not being held to be a whistle-blower, and the upset and annoyance all this has caused him and his family.

40. I doubt whether the claimed new PDs would comply with the statutory requirements.

41. I doubt whether the claimed detriments (insofar as they are simply the effects of an unappealed judgment) would be recognised as such as a matter of law.

42. Claimed Detriments (a) (b) (c) (f) and (g) (see Schedule 2) would seem to fall into this category. If these were recognised as detriments, they would have been caused by the 2015 trial outcome and not by the claimed PDs, so the essential requirement of causation between the PDs and the claimed detriment would be missing.

43. The only specific instance of claimed detriments (d) and (e) which the Claimant was able to identify allegedly occurred in May 2022 when a Respondent press officer spoke to a journalist, referring to the fact that the 2015 judgment had found that the Claimant was not dismissed for whistleblowing. It is likely that if that did occur, the reason was also the 2015 tribunal outcome, rather than because of any prior claimed PD which the Claimant may have made. In any event referring a third party to the findings in an unappealed judgment is unlikely to be accepted as a detriment to the Claimant.

44. It is clear that all the claimed new PDs and claimed new detriments relate closely as a matter to the 2015 trial and its outcome, and that the purpose and claimed remedy of the proposed new claim which the Claimant would like to be permitted to run by way of amendment is simply the overturning/alteration of the 2015 judgment. This the Claimant makes explicit in paragraphs 18 to 23 of his amendment application which reads as follows:

*"The Claimant contends that this Employment Tribunal should find that the potential and actual miscarriage of justice that he had and does allege did take place, and that the Tribunal must find that he had made 'protected disclosures' to the Respondent and that he was dismissed for having made them, and that the Claimant is owed substantial compensation.*

*The Claimant contends that it is impossible for the Employment Tribunal to make any other finding and make any other award, when it has the opportunity to review all of the evidence, much of which remains concealed.*

*Indeed, the Claimant is certain that he can establish that had the concealed evidence referred to in his new disclosures been disclosed the Employment Tribunal in 2015, the 'miscarriage of justice' would not have occurred, and that Judge Tayler could also not have produced any other finding than that which the Claimant contends must now be found in respect to this new claim.*

*Indeed, the same Judge Tayler in Ian Drysdale vs RBS, upheld RBS position that Mr Drysdale was rightly dismissed for various misconduct, all of which the Respondent's own FX investigation, 'Project Oban', discovered the Claimant's colleagues were guilty of, but the findings of which were concealed in 2015.*

*Project Oban establishes that the Respondent should have dismissed those colleagues of the Claimant in 2014, and that this Employment Tribunal would have upheld those dismissals. In which case, had the Respondent not concealed this evidence the Claimant would never have been subject to any dismissal at all, and none of the distress and detriment he has suffered as a result.*

*It therefore also stands to reason that the Claimant's dismissal could not have been the result of the 'cost cutting' exercise. If that were true, the Respondent would surely have dismissed one of those employees that it had found to be guilty of egregious misconduct so as to reduce costs".*

45. The proposed new claim offends the res judicata principles and is an abuse of process because it seeks to invoke the form of a new claim but is in fact in substance nothing other that an attempt to overturn or change a fundamental aspect of the 2015 judgment.

46. In addition, most if not all of the claimed detriments occurred years ago and well before the primary limitation period of three months (plus ACAS conciliation) which would apply to these claims if they were brought as a fresh ET claim. The Claimant told me that he discovered in June 2022 the "significant cache of documents" which prompted him to bring his claims. He had sufficient knowledge to bring the new claims then. He says he waited until July 2023 to present his claim because he wanted a response to his complaints from the Respondent and was scared of a costs application being made by the Respondent. These factors would not constitute factors making it not reasonably practicable for the Claimant to present his claim far earlier than he did.

47. In addition I accept the Respondent's submission based on Woodward v Abbey National plc [2006] ICR 1436, and Aston v Martlet Group Ltd 2019 ICR 1417 at 99-101, that any claim for post-employment whistleblowing detriment must arise out of and be closely connected to the employment relationship.

48. The claimed new detriments in this case are connected to the former employment relationship but in my view they do not arise from it and are not closely connected to it. They arise from are closely connected to the 2015 judgment. Hence they are not within the scope of the Tribunal in any event.

49. The proposed amendment would open up considerable areas of fresh dispute much of which would require examination of events and material from many years ago. It would therefore be a substantial amendment.

50. The application to amend has been late, and made on a piecemeal basis, with the material documents relied on served just before and then during the hearing.

51. I have applied the Selkent principles and find that the prejudice to the Respondent in having to re-open these historic matters in order to defend flawed claims outweighs the prejudice to the Claimant in not being permitted to run them. Hence I refuse the application to amend.

Employment Judge J S Burns
17/01/2024
For Secretary of the Tribunal
Date sent to parties : 17/01/2024

## Schedule 1

### (A) the claimed new PDs as pleaded by the Claimant in his application to amend served on 15/1/24

(i) The Claimant had made protected disclosures to the FCA and his MP at the time, Gareth Johnson, both Prescribed Persons as defined by PIDA, between June 2015 and the Employment Tribunal main hearing of September 2015 specific to the 'potential miscarriage of justice' that would likely take place:

a) If the FCA failed to provide their opinion to the Claimant and the Tribunal as to the whether the protected disclosure made by the Claimant as to the attempt to defraud Tesco on 1st July 2014, was a breach of regulatory codes and UK law as alleged by the Claimant in his disclosures made on said 1st July 2014, or was it not as was being argued by the Respondent.

b) If the FCA failed to provide any and all information to the Claimant and the Tribunal, specific to any regulatory action taken against the Respondent and/or the Respondent's employees that was relevant to the conduct and allegations the Claimant had made in any of his protected disclosures.

(ii) The Claimant had made protected disclosures to the FCA after the September 2015 main hearing in which he alleged that the potential miscarriage of justice he had made disclosures about prior to the hearing, had occurred exactly as per those protected disclosures and certainly in some or significant part as a result of:

a) The failure of the FCA to provide the opinion and information that the Claimant had sought

b) The failure of the FCA to investigate his disclosures at all in 2015

c) The failure of the FCA to review any of the 'smoking gun' evidence that he had presented to the FCA, specific to the protected disclosures he had made during his employment with the Respondent

(iii) The Claimant had made new protected disclosures to the FCA and FCA CEO Andrew Bailey personally, that:

a) The FCA had made false representations in response to his complaints and protected disclosures made after the 2015 Tribunal hearing

b) The FCA and its CEO, Andrew Bailey and/or certainly persons working in his office and on his behalf, had orchestrated the production of the false representations that were sent to the Claimant, to the extent that the response provided by the FCA on 16th December 2016 had been falsified so as to exclude the findings of the FCA's own expert in a report sent to Mr Bailey's office on 24th October 2016, having originally been included in the first draft of the response

c) The evidence the Claimant had obtained only in 2022 and that proved the false representations had been dishonestly and unlawfully concealed from him by the FCA, and that CEO Andrew Bailey and/or certainly persons working in his office and on his behalf, had orchestrated the dishonest and unlawful concealment of the evidence that the Claimant had only much later obtained

(iv) The Claimant had made new protected disclosures to the Respondent, (and directly to CEO Charlie Nunn), and the FCA, that they had both independently and in collusion with each other, concealed from the Claimant and the Tribunal in 2015, and the Claimant continuously thereafter, the findings of the FCA and the Respondents FX investigations, codenamed 'Project Dovercourt' and 'Project Oban' respectively, both of which discovered significant egregious FX wrongdoing by the Respondent and the Respondent's FX traders in October/November 2014, for which other banks were fined and traders at those other banks were sacked.

(v) The Claimant had made new protected disclosures to the Respondent and the FCA, that they had both independently and in collusion with each other, concealed from the Claimant and the Tribunal in 2015, and the Claimant continuously thereafter, regulatory action taken by the PRA in 2015 specific to the gross misconduct of the Respondent and its senior managers, Anders Henrickson and Vikas Dabral that lead to £50m in losses on 15th January 2015. Conduct that had been the subject of a protected disclosure made by the Claimant on 14th March 2014, and that had warned of such huge potential losses.

(vi) The Claimant had made new protected disclosures to the Respondent and the FCA, that they had both independently and in collusion with each other, concealed from the Claimant and the Tribunal in 2015, and the Claimant continuously thereafter, the existence of a disciplinary investigation undertaken by the Respondent into that gross misconduct conduct of Anders Henrickson and Vikas Dabral that lead to £50m in losses on 15th January 2015, including that a decision had been made as a result of that disciplinary investigation on or before 19th March 2015 to sack both for gross misconduct.

(vii) The Claimant had made new protected disclosures to the Respondent and the FCA, that they had both independently and in collusion with each other, allowed the Respondent to conceal the decision to sack both Dabral and Henrikson as a result of that disciplinary investigation and regulatory action, from the Claimant and the Tribunal in 2015, and the Claimant continuously thereafter, and to defer the announcement of their 'exits' (disguised as genuine exits for no apparent misconduct or other reason) until the week after the conclusion of the Claimant's main Employment Tribunal hearing which occurred on 24th September 2015.

(Henrickson's 'Exit at the end of the year' was reported by Bloomberg on 1st October 2015, and Dabral's 'Exit at the end of the year' was reported by Bloomberg the following day on 2nd October.)

(viii) The Claimant had made new protected disclosures to the Respondent and the FCA, that the intent of the concealment detailed in (v) to (vii) was entirely with intent to execute the miscarriage of justice that the Claimant had alleged and does allege. Henrickson was the principal culprit and witness in the proceedings in 2015, and it would have been impossible to deny that protected disclosures had been made by the Claimant, or to defend a claim for detriment to a whistleblower, if it was exposed to the Claimant and the Tribunal in 2015 that Henrickson had been sacked six months prior to the main hearing for the gross misconduct that were the subject of the Claimant's protected disclosures of 1st March 2014, and that resulted in the huge losses for the Respondent that the Claimant had warned of in those protected disclosures.

(ix) The Claimant had made new protected disclosures to the Respondent that they had made false representations to the media to further the above concealment. Bloomberg reported in their article of 1st October 2015 that they had asked if Henrickson's exit had anything to do with my Tribunal case. Bloomberg reported "Henrickson departure said to be unrelated to Carlie case". This is now established as demonstrably false.

(x) The Claimant, and the Claimant's legal representatives that were instructed between September 2021 and October 2022, had made multiple new protected disclosures to the Respondent, and all of them directly and personally to the Respondent's CEO Charlie Nunn, that alleged:

a) The miscarriage of justice

b) Multiple and various breaches of regulatory codes and law including those specific to Market Abuse, Market Manipulation, and the FCA code SYSC 18[1] which quite clearly states in SYSC 18.3.1 the following regulatory and legal obligations for any firm that is subject financial Supervision by the Financial Services and Markets Act (FSMA).:

c) Breaches of FCA Senior Managers and Certification Regime (SMCR) by CEO Charlie Nunn and other employees of the Respondent who were ordered to provide responses to the new disclosures on Mr Nunn's personal behalf

d) Multiple and various breaches of UK Law including: - Breaches of GDPR
- Perjury
- Breaches of the Fraud Act

Breaches of the Suicide Act
(A criminal investigation is now underway by the Metropolitan Police into the breaches of Suicide and Fraud Act)

e) Concealment of highly relevant evidence and information from the Claimant and the Tribunal in 2015, and from the Claimant ongoing thereafter

f) Ongoing and continuing actions by the Respondent including ongoing concealment, dishonesty and unlawful conduct by the Respondent and the Respondent's legal representatives as recently as November 2023

**(B) the claimed new PDs as pleaded by the Claimant in his "List of Additional New Protected Disclosures"served on 17/1/24**

1. 9th July 2015 - Internal FCA email documenting my call to the FCA where I referred to the various protected disclosures I had made to the Respondent and escalated to the FCA, regulator and Prescribed Person, and where I sought any and all information from the FCA specific to any regulatory action taken against the Respondent specific to any of the conduct that was the subject of protected disclosures I had made to the Respondent during my more than two years employment with them.
2. 24th July 2015 – Protected disclosures made to the FCA, Prescribed persons, specific to false representations made by Lloyds and their lawyers Addleshaw Goddard. I specifically state "Can you please forward this incredible letter [from Addleshaw Goddard on respondent's behalf] and this email to the Supervisory team, as another protected disclosure by me in respect to another attempt to defraud me"
3. 15th September internal FCA email, just prior to the Tribunal hearing in 2015 authored by Jane Attwood, Head of FCA Intelligence, the department that runs the FCA whistleblower team and handles all incoming intelligence. Ms Attwood was entirely conflicted and is a former employee of the Respondent who left in October 2013 amid the Thames Valley Police investigation of the HBOS Reading fraud, and is a former colleague of Andy Horsley, the Respondents investigator who produced the falsified findings in respect to the Tesco fraud.

3.1. She refers to my requests for the FCA opinion and information specific to any action taken so as to prevent the potential miscarriage of justice. However, she deliberately or mistakenly, has altered the narrative and the basis of my requests. She wrongly or falsely states:

a) That I was seeking an opinion on my legal case. I was not

b) That GCD (FCA Group Counsel Division) had declined to provide the opinion.

That is contrary to what FCA Counsel had told me in writing earlier that same day. He had told me via the whistleblower team that they were not in a position to offer an opinion at this time because they had not yet formed one.
c) The miscarriage of justice decision did rely significantly as to whether any of my protected disclosures represented conduct that breached UK law or regulator code. The Respondent had pleaded that none of them had, now demonstrably false as a result of the discovery that the PRA had taken regulatory action in 2015 against the Respondent.

3.2. This is one of many internal FCA documents demonstrating Attwood's involvement in the handling of my whistlebower disclosures that I had made during my employment at the Respondent and had escalated to the FCA and her involvement in the handling of my protected disclosures made to and against the FCA in respect to the miscarriage of justice.

3.3. WHEREAS, and as another example of post employment detriment, the FCA made the following therefore false representation to Reuters journalists in an article published on 26th June 2019 specific to Attwood.

"It is expected the regulator's conduct toward Sally Masterton and Paul Carlier, both Lloyds whistleblowers, will also be criticised.

Jane Attwood, head of intelligence and former Lloyds Banking Group employee, is the FCA executive in charge of the whistle-blowing function, which his headed up by John Dodd. Attwood's role and potential conflicts of interest could also be raised in the debate.

"There is no substance to any of these allegations concerning the handling of whistleblowers nor relating to members of FCA staff. The staff member has not been involved in exercising any functions or powers of the FCA in respect of [Lloyds Banking Group], nor do her specific duties routinely involve her in anything to do with LBG," a spokeswoman for the FCA said."

4. 6th October 2015 – Protected disclosures to the FCA following the Tribunal hearing, but before the judgement was provided, specific to a miscarriage of justice that had likely occurred, the FCA's failures as Prescribed Persons, and disclosures specific to the email sent to me by the FCA whistlebower team on 6th September 2015 just prior to my September 2015 hearing. An email in which it is only now demonstrable that the FCA and FCA in house Counsel Greg Choyce made representations that were false and/or misleading.
5. 23rd October 2015 – protected disclosures made to the FCA and then CEO Tracey Mcdermott specific to a miscarriage of justice that might have now occurred, as per my earlier disclosures as to a potential miscarriage of justice, FCA failures to investigate and/or dishonesty and specific to what representations made by then FCA Counsel Greg Choyce in his email just prior to the Tribunal hearing in 2015.
6. 18th May 2022 – Protected disclosure to Respondent and CEO Charlie Nunn specific to:

a) False and defamatory representations made to a journalist by Respondent's press officer, Ian Kitts.

b) The concealment of regulatory action taken in 2015 by the PRA specific to the £50m losses of January 2015 and the misconduct that lead to them

c) The concealment of the decision to sack my manager and key witness at the Tribunal, Anders Henrickson, on or before 19th March 2015

d) The miscarriage of justice that resulted from the concealment of that key evidence from the Claimant and the Tribunal in 2015.

e) Dishonest and unlawful concealment of the above by the FCA.

f) Dishonest and unlawful concealment of evidence from the Claimant and the Tribunal in 2015, and from the Claimant thereafter by the Respondent in collusion the FCA

7. 19th May 2022, 9th June 2022 (PAGE 166 of Claimant bundle) – Protected disclosures made to Respondent CEO Charlie Nunn specific to breaches of the Suicide Act and breaches of the Fraud Act by the Respondent independently of, and in collusion with, the FCA.
8. 2nd June 2022 [PAGE 169 of Claimant's bundle] – Protected disclosures specific to the unlawful concealment and fraud by the Respondent independently of, and in collusion with, the FCA
9. 19th November 2022 – Protected disclosures made to the Respondent, and the Respondent's CEO personally, to Prescribed Persons, FCA CEO Nikhil Rathi and my MP, Laura Trott, in which I make new protected disclosures based upon the newly discovered evidence, all previously and unlawfully concealed from the Claimant and the Tribunal in 2015 and the Claimant since that are specific to:

    a) False representations made

    b) Concealment of evidence from the Claimant and the tribunal

    c) Concealment of personal information in response to Data Subject Access Requests

    d) Fraud and conspiracy to defraud by the Respondent, the FCA and Andrew Bailey personally and/or persons working within his office, to which the FCA's experts report was sent on 26th October 2016 that included the findings that entirely corroborated my disclosures and allegations as to the attempt to defraud Tesco

    e) The fraud by way of falsifying by the FCA, Mr Bailey personally and/or persons in his office acting on his personal behalf, of the response to my protected disclosures made to the FCA before and after my Tribunal, specific to the potential and then actual miscarriage of justice.

## Schedule 2

**the claimed detriments caused by the PDs as pleaded by the Claimant in his application to amend served on 15/1/24**

a) The Claimant was the victim of the alleged 'miscarriage of justice' that was clearly included in his disclosures

b) The Claimant, as a result, and as intended by the Respondent was deprived of ‘protected’ whistleblower status as a result of that miscarriage of justice, and that was executed by way of the dishonest concealment and breaches of legal obligations

c) The Claimant, as a result, and as intended by the Respondent was deprived of the opportunity for unlimited compensation, up to more than £7million (the value of the Claimant’s schedule of loss in 2015) as a result of that miscarriage of justice, and the conduct used to execute it

d) The Claimant has been subject to representations made by the Respondent and the FCA, both independently of, and in collusion with, each other to the public, media and Parliamentarians that relied upon the findings that the Respondent [and the FCA] knew to be incorrect and a miscarriage of justice, and that were therefore false and defamatory with intent to smear and discredit the Claimant

e) The Claimant has been the subject of representations made by the FCA to the Financial Services Complaints Commissioner (FRCC), to the Information Commissioner (ICO) and to the First Tier Tribunal (Including as statements signed as truth and fact) where the FCA that relied upon the findings that the FCA and Respondent knew to be incorrect and a miscarriage of justice and that were therefore false and defamatory with intent to smear and discredit the Claimant, AND with the further intent to deprive more than 2,000 victims of the Blackmore Bond fraud and Ponzi scheme that the Claimant discovered and reported to the FCA in March 2017 (and to FCA CEO Andrew Bailey personally in 2018) of the £46m in losses that those victims suffered as a result of the FCA’s catastrophic failure to act on the ‘smoking gun’ intelligence and reports the Claimant made.

f) The Claimant (and his family including his two sons that the Respondent knew to be Autistic) has suffered more than 8 years of suffering, distress and inconvenience, and damage to his physical and mental wellbeing as a result of the miscarriage of justice that he knew was going to occur and that did occur in 2015.

g) The Claimant was twice driven to the verge of suicide in November 2015 and December 2016, such is the level of distress and utter futility when you know that you are the victim of a miscarriage of justice but do not have the resources

or the evidence to prove it, even when you know the evidence must, and does exist, but is being unlawfully concealed.