Case No: CR-2017-000140

IN THE INSOLVENCY & COMPANIES LIST OF THE HIGH COURT

The Royal Courts of Justice
7 Rolls Building
Holborn
London
EC4A 1NL

BEFORE:

MR JUSTICE FANCOURT

BETWEEN:

MIDDLESBROUGH FOOTBALL ATHLETIC CLUB LTD **APPLICANT**

- and -

PAUL MILLINDER **RESPONDENT**

Legal Representation
Mr Dov Ohrenstein (Barrister) on behalf of the Applicant
Mr Paul Millinder (Respondent), Litigant in Person

Other Parties Present and their status
None known

Whole Hearing

Hearing date: 11 November 2020
(start and end times cannot be noted due to audio format)

Reporting Restrictions Applied: No

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Number of folios in transcript 197
Number of words in transcript 14,140

Mr Millinder: You have read my transcript, have you, Mr, my skeleton, Mr Ohrenstein, have you? Is he playing conveniently --

Mr Ohrenstein: I am not going to engage in conversation with you, Mr Millinder. I am going to --

Mr Millinder: Well you will do when you end up in --

Mr Ohrenstein: Say what I need to say to the judge.

Mr Millinder: You will do when you are in Crown Court and that is all I can say because you are a liar and a cheat. That is what you are. The evidence proves it, a liar and a cheat and a colluder. You have been perverting the course of justice. You are going to prison.

(pause)

Mr Millinder: So, all of this funny business about evasion of evidence and everything else is finished. Now it is game up. We are going to get to the nitty-gritty of what all this is about, like it or lump it. Nobody plays this game with me and then gets away with it. Enough, enough of your nonsense.

(pause)

Fancourt J: Steve, am I audible?

Court Clerk: Yes, so, sorry, Sir, I muted myself. I will just call the case. This is an application hearing before Mr Justice Fancourt in the matter of *Middlesbrough Football Athletic Club Company Ltd v Mr Millinder*.

Fancourt J: I will just mention two matters at the outset before we proceed further. The first is that this being 11 November the court building where I am observes a two minutes' silence at 11 o'clock and I propose therefore to observe that silence. My, my clerk will mute the hearing for, for two minutes at 11 o'clock and then we will resume two, two minutes

later. That is the first thing. The second thing is that this is a hearing to deal with two matters. First of all, the applications by the Club for a Civil Restraint Order against Mr Millinder. I, I heard Mr Ohrenstein on those applications last Friday, I have read his further skeleton argument. I do not know whether he wishes to add anything to, to that but I will, if he does I will hear him briefly then I will hear Mr Millinder in opposition to that application. The other matter that I am dealing with today is the summary assessment of costs and I will deal with that after we have finished the ECRO application. Mr Ohrenstein, do you wish to say anything further in support of your application?

Mr Ohrenstein: Only just very briefly. As the Court is aware the jurisdiction to make a Civil Restraint Order, whether an Extended Civil Restraint Order or a General Civil Restraint Order, arises in circumstances where there have been repeated claims or applications which are persistently without merit. The Court can look at previous applications and claims where there has been no express finding of totally without merit, however, and, and the Court may take a view for example on the applications that were considered by Mr, Mr Justice Nugee. However, in the circumstances of this case I say that there is sufficient, there are sufficient findings of previous judges expressly recording that applications or claims have been persistently without merit.

Now Mr Millinder may dispute that those judges came to the correct conclusions and he may be very keen to try to re-litigate those findings but in circumstances where those are findings that have been made and recorded on the face of various orders there is no need to go behind those judgments and I say it would actually be not just unnecessary but it would be wrong to go behind the judgments and to go down the path that Mr Millinder is, is, is clearly trying to take of reopening all the issues over the last few years and re-arguing about the circumstances of the forfeiture and the lease and so forth.

His conduct over the last few days in the context of the mass of material that he has, that he has sent and the threats and so forth underline that this is not simply a gentleman who has in the past persistently made applications and claims which are totally without merit but it is quite clear that he has every intention of continuing with this behaviour.

Mr Millinder: In the Crown Court.

Mr Ohrenstein: So, unless there is, so unless there is anything further that I can address at this stage I, I rely really on what has, what has already been said.

Fancourt J: Thank you very much. Well, Mr Millinder, I have received, amongst other things from you, since the last hearing a skeleton argument for this morning's hearing, which I have read, thank you.

Mr Millinder: You have read it, have you? If you have read it, My Lord, why at 9.14 this morning did your clerk write back to me to ask me to send you individual copies of my exhibits that I sent you on Friday when if you turn, please, to page 2 of my skeleton, turn to page 2 of my skeleton. I will just read out paragraph 3 there just so we are clear and we are putting this on the record:

> **"During the last hearing the judge implied that he could not access my pdf evidence nor could he access my website when anyone anywhere can do both."**

Right? This was an excuse used to evade all of the evidence. The fact of the matter is here that if we go down to paragraph 6. Can you read paragraph 6, My Lord?

Fancourt J: I have it in front of me.

Mr Millinder: What does paragraph, what does paragraph 6 say? Mr Lord, what does paragraph 6 at page 2 of my skeleton say?

Fancourt J: If you wish to draw my attention to something in the skeleton --

Mr Millinder: Well, no, I am asking you. You have read it so you know what it, what it says. I will read it out for you, OK? It says:

> **"I am going to make this very clear. I have separated from the pdf portfolio the loose-leaf table of exhibits across three pages. I repeat the judge has received all of those exhibits individually by email so there can be no other possible rationale for spoliating my evidence to assist the offenders."**

A

The loose-leaf index is the one here and if you just click on that, you have got it in front of you in your PC, you can be taken to it, anyone can and I know that all of the rest of the judges can. The ones in the Magistrates' Court can as well, so can you because you are on the same system. So, why did you say that you could not access the links?

B

Fancourt J: Mr Millinder --

Mr Millinder: I am asking you.

C

Fancourt J: I am not here to answer these questions.

Mr Millinder: I am asking you. Well it is --

D

Fancourt J: I am here to listen to any submissions you wish to make.

Mr Millinder: Well I am here to ask you questions because you, you have a duty --

Fancourt J: (inaudible) made against you.

E

Mr Millinder: You have a duty, My Lord, you have a duty to act with integrity, with honesty in accordance with the Nolan Principles. Now there has been a lot of deceit going on here. My evidence has been ignored. You admitted that all of my evidence was ignored at the last hearing. I made it absolutely clear to you that I was relying on the transcript and now mysteriously the transcript goes missing. What a coincidence.

F

Fancourt J: Mr Millinder, would you like me to assist you to --

G

Mr Millinder: Well I do not need any assistance.

Fancourt J: Make submissions --

H

Mr Millinder: I do not need any assistance. You know what, you have heard me in Court. I do not think I need any assistance. My Lord, let us move on.

Fancourt J: Mr Millinder, can I just, can I just clarify one thing, Mr Millinder? I have seen the application that you have issued seeking a hearing in front of the Master of the Rolls --

A

Mr Millinder: Yeah.

Fancourt J: Which amongst other things invites him to recuse me --

B

Mr Millinder: Yes.

Fancourt J: From any further hearing. Are you making any application this morning that I should recuse myself?

C

Mr Millinder: No, no, we are going to proceed. You, you think it is appropriate for you to proceed on these matters so we are going to proceed.

D

Fancourt J: *You want to continue with the case*, right.

Mr Millinder: OK? So, you, you --

E

Fancourt J: And, that that is --

Mr Millinder: You tell me that you have read your, my skeleton. That is what you are saying categorically. You have read it, yeah?

F

Fancourt J: Yes, I have read it. I read it this morning, Mr Millinder.

Mr Millinder: OK. So, therefore why at 9.14 this morning did your clerk specifically write to me to ask me to send the exhibits when it is very clear at page, at paragraph 2, sorry, page 2 paragraph 6 that I made it abundantly clear in the first start of my skeleton that actually it was already provided to you on Friday and all you had to do was click on the link?

G

Fancourt J: Mr Millinder, let me explain that to you.

H

Mr Millinder: Please, yeah.

Fancourt J: The reason you received an email from my clerk was because I was reading your skeleton argument and I wished to be able to access any exhibits during the hearing that you wanted to draw my attention to and we do not access external websites from this court building where there is a potential security risk. Your own witness statement says that:

"The website is all tracked using sophisticated tracking --

Mr Millinder: Absolutely.

Fancourt J:

"So, I know who has read it and how long they have spent reading it."

Mr Millinder: Correct.

Fancourt J: The way the Court operates is that evidence to be relied upon is filed on the CE file, the Court system.

Mr Millinder: Which is what, My Lord?

Fancourt J: Which is was not without --

Mr Millinder: You are saying it was not? Hang on.

Fancourt J: Without being able to access your own company's website.

Mr Millinder: No.

Fancourt J: That, that the Court and judges do not do. That is the reason why I asked for pdfs --

Mr Millinder: OK.

Fancourt J: Of all of the exhibits this morning, OK?

Mr Millinder: Fine, I accept that but you already had them on Friday, so why would you ask for something that you already had and in addition the pdf portfolio of exhibits, which anyone could access, you could access it, was filed with my application on 28 October?

Fancourt J: Mr Millinder, this is not assisting with the application.

Mr Millinder: Well it is assisting because I want to know why you have ignored all my evidence. You made an order but you ignored all my evidence. Why did you make an order in absence of hearing the other side? I am asking you, why? You are meant to be the judge.

Fancourt J: I am not sitting here answering your questions.

Mr Millinder: Well you will answer it in the appropriate jurisdiction. OK, we will move on. We will move on. OK, so here we go. I shall turn to page 3 of my skeleton and we will just cut to the chase here. We will turn down to paragraph 8, right:

> **"I strongly object because it is the duty of the Court to ensure that the parties are on an even footing and it was Mr Brilliant undoubtedly under instruction of the judge who has ensured that the transcript on which I rely contains the fresh evidence of dishonesty of the part of Mr Ohrenstein when he knew that the statements he was making were lies."**

I needed to rely on that because I am adducing fresh evidence in these proceedings in relation to Ohrenstein's blatant outright dishonesty. We need that transcript. Nothing can really happen in absence of me being able to access the transcript which I am paying for on a 48-hour turnaround that I requested at 6 o'clock on Saturday morning. It is unacceptable. There is no excuse for it. We need the evidence. It proves dishonesty on the, on the, against the other side and it is absolutely material to the rest of the dishonesty and Your Lordship will be aware of all of the dishonesty if you have read my skeleton. We are not getting away from it. This is serious fraud. This is a conspiracy to defraud. I do not make up stories. I do not make up allegations unless I can prove the allegations and I can prove fraud, a conspiracy to the criminal standard of proof.

Now we all need to get with the programme, right? So, let's carry on, right? Let's just get to, cut to the chase here. I turn to page 4 at paragraph 10, My Lord. Paragraph 42 quoting from my witness statement:

> **"I quote the finding from the last hearing. It seems to me that the assignment from EWMFC to EE was never actually decided by a judge."**

Do you not consider that is rather pertinent because I do know for a fact that the assignments, both of them, do indeed meet the criteria set out in Section 1361 of the Law of Property Act 1925 and that cannot be diminished for any diminishment of that argument is not disagreeing with me it is affronting the supremacy of the rule of law itself that makes those assignments valid. Therefore, on the, on 29 June 2015 the funds were assigned, all of the investments in the project were assigned, all of the investments, the £770,000, and these Defendants have known that all the way along and therefore they have known all the way along that I do not owe them 25 grand, I never have done. Their petition was a nullity from the outset, right? That is what we need to focus on.

These people have kidded you, they have misled the Court and they could get everyone in a whole lot of unbearable trouble because of their deceit. Ohrenstein has known all of this. He has known it all the way through. The man is just a liar. He is a waste of space and a total and outright liar. It is proven that Ohrenstein has lied to you, My Lord, at the last hearing because if you recall, and it was not long ago, I think we have all got very good memories, certainly Your Lordship, you know, I know that you are a very intelligent man, that is why you are a High Court judge. We are all smart people. We all know what this is all about. We all know the law. The position I am conveying is that Ohrenstein told you that the email that I had sent on 24 October was presented in the, in the bundle but he failed in his duty to disclose that.

He also lied and told you that the 13 attachments in that email were also disclosed when he knew that they were not and the tracking report that I refer to, and you have obviously read through my skeleton so you know what I am referring to, proves that Womble Bond Dickinson read that email over ten times on ten separate occasions. And all of that material is absolutely critical and pertinent to the case that they were advancing ex parte both for the

injunction and for the ECRO. Therefore, the disclosure was intentional, premediated and material.

A

These people are guilty of serious fraud. They have conspired to defraud me of my assets under the façade of this Court using insolvency legislation, which is principally designed to recover assets for creditors of insolvent estates as the means of defrauding me, otherwise majority creditor of Empowering Wind MFC Ltd with otherwise over 90% of the requisite majority voting interest, of my assets by colluding with Hannon who owes me a fiduciary duty. The purported Official Receiver of London I aptly describe as the Official Deceiver, who has colluded with these hoodlums to retain a £4,100,000 fraudulent claim that they have all known was fraudulent from the outset. You, My Lord, know about Section 2 of the Fraud Act 2006 and the actus reus of the offence, well that is the offence that they have committed in conspiracy in fact on five separate counts.

B

C

They have also committed the offence of fraud by failing to disclose information, a serious indictable offence, on four separate counts. And we are sitting here arguing about an ECRO to cover all this up. What are these people actually doing? Are they absolutely mental? Are they completely deranged? Who are these people? What are they, what has actually got into their minds? What are they thinking of? They have given false statements. Anyone, you know, any, it does not take a rocket scientist, anyone with half an ounce of common sense could look at the terminology of the energy supply agreement. No claim could be established because over £4,000,000 of the, of the claim that they sought was effectively sought pursuant to the energy supply agreement that required my full satisfaction of the connection agreement that they refused.

D

E

F

But moreover Staunton himself admitted this on 9 January 2017 in the note of hearing ex parte, so therefore it is proven beyond doubt that the criminal standard of proof it was in fact Gill who made the claim who provided me with a copy of that note of hearing but they all knew that the claims that they were making were false and therefore the actus reus of the offence is complete. They are all going to prison. Anyone else that supports them in concealing this fraud is also going to prison.

G

H

Now we will move on. At paragraph 11 of page 4 that at least is one correct factual position but actually so is this from page 2 paragraph 9, out of the horse's mouth from the judge himself:

"Issue estoppel applies in relation to the finding. The substantive issues have never been tried."

I move onto paragraph 12. The problem with this should in fact be rather obvious in so far as both findings are correct, therefore it is proven beyond doubt that the ECRO, the first one, is unlawful because none of my applications are without merit. They cannot possibly be because none of the issues have ever been tried. They have all evaded. They have been evaded principally because of these hoodlums, these Defendants have been misleading the Court presenting a false case right the way throughout all of these proceedings, ex parte and otherwise. They are liars. They are cowards. They are liars and they are wholly reliant on collusion and deceit to procure pecuniary interest by deception using the Court as the means to achieve injustice.

My Lord, where there is wrongdoing, and these wrongdoings are absolutely prolific, there must be restitution. And the point that I make is a very, very simple one and that is it is proven to the criminal standard of proof that I have never owed Middlesbrough a single penny and they unlawfully forfeited the lease. The two issues that come to mind are the same two issues that they sought to conceal from the original ex parte hearing, the same as they have done in this one and that is that on 9 January 2017 they could not defend my statutory demand so they withheld the assignment and they failed to disclose in their duty of candour that they refused the connection, they breached the completed collateral contract rendering the project entirely useless, preventing me from performing on the rights granted under the lease in the first instance.

One cannot rely on one's own wrongdoing to found a restitution in this civil court. The doctrine, as I am sure My Lordship knows, is the doctrine of illegality. It applies in this case therefore their applications for an ECRO false instrument are totally without merit. On that note I ask that you dispose of the ECRO applications first and foremost. Now we will move onto the detail. I am stickler for detail. I am sure Your Lordship has now picked up on that fact. You will see --

Fancourt J: Mr Millinder, before you move, you move on.

Mr Millinder: Yeah.

Fancourt J: Could I invite you to address in particular two matters which I have to consider --

Mr Millinder: Yeah.

Fancourt J: On the CRO application? First of all, whether you have persistently issued claims or made applications which are totally without merit. That, that to some extent is a matter of record in the sense that a number of previous judges have declared that various applications were totally without, without merit.

Mr Millinder: But they have been acting illegally.

Fancourt J: Well if that, if that is your --

Mr Millinder: And they are all being prosecuted.

Fancourt J: Argument then I, I, I understand it but if there is anything else you want, want to say.

Mr Millinder: There is a lot, there is a real lot that I want to say, My Lord.

Fancourt J: Hear, hear me out, Mr Millinder.

Mr Millinder: Yeah, yeah, sure, yeah.

Fancourt J: I will let you continue. If there is anything else you want to do to explain why you say you have not persistently issued applications which are totally without merit it will help me to understand on what basis --

Mr Millinder: Absolutely.

Fancourt J: You can say it.

Mr Millinder: Absolutely.

Fancourt J: The second, the second matter is if, if I come to the conclusion that you have issued persistently applications totally without merit then there is the question of whether, whether it is appropriate and necessary to, to make a Civil Restraint Order in order to protect the resources of the court system judiciary and to prevent unnecessary costs being incurred. So, that also I would welcome any, any arguments that you wish to advance.

Mr Millinder: Well, yes, I think really my skeleton does say it all. Everything that has gone on in this Court to date has been founded by fraud and collusion and the corrupt judiciary covering it all up to assist the offenders in evading justice. That is precisely what has been going on. But if you recall, My Lord, we talked about tab 13 of the index of evidence during the last hearing, first of all I am going to turn to page 3 of tab 13 and this is the law that is set in stone by the Superior Court here, Secretary of State Home Department 2016, the Court of Appeal judgment that I refer to.

Fancourt J: Sorry, which, which tab are you going to, please?

Mr Millinder: 13. 13.

Fancourt J: 13, just a moment.

Mr Millinder: Yeah.

Fancourt J: Tab 13 is the letter to Pauline Drewitt.

Mr Millinder: Miss Drewitt, yes. Yeah, that's correct. So, if we turn there to page 3, please. Got it?

Fancourt J: I have, yes.

Mr Millinder: OK, thank you. So, what I have done at paragraph 13 there I talk about the judgment from the Superior Court *Wasif v Secretary of State Home Department* [2016] where the Court of Appeal set out that inescapable checklist that it is inescapable when any judge is considering certifying any one application as totally without merit and I quote from paragraph 2 of that list:

"No judge should certify an application as totally without merit unless he or she is confident after careful consideration that the case is truly bound to fail. He or she will have no doubt in mind the seriousness of the issue and the consequence of his decision in a particular case."

I move on to paragraph 14, note how the finding, finding refers to case truly bound to fail and not the application itself. The point I make is at point 5:

"Where a judge suspects that there may be a reasonably."

Oh sorry, it says:

"May be an arguable claim even if the point in question has not been pleaded properly or at all then it should not be certified as totally without merit."

But I did plead it all properly. It has just been all ignored, all deliberately evaded to assist the offenders in evading justice. I continue to page 4 paragraph 15 and I state:

"There is clearly an arguable claim in this case and that is of unlawful forfeiture of the lease that founded all of this litigation in the first place. That unlawful forfeiture was founded by fraud. The tort of fraudulent misrepresentation in contract law for which there must be restitution. The further more serious frauds all came about because that initial fraud and dishonesty is at the heart of it all. That fraud and dishonesty is what this judiciary has sought to evade."

And this brings me onto the next in the checklist, point 7:

"Where a claim is certified as totally without merit then peculiar care must be taken to ensure that all the arguments raised in the grounds are properly addressed."

That has not happened, not in one single application that these purported judges have certified as without merit, not anywhere in any application can you take me to any properly reasoned judgment that in any way shape or form covers any element of the preliminary considerations in my case.

Fancourt J: Mr Millinder, I am sorry, I am going to ask you to pause for the, the two minutes' silence, which starts in five seconds' time. Thank you.

Mr Millinder: OK.

(two minutes' silence observed)

Fancourt J: Yes, thank you very much. Would you like to continue?

Mr Millinder: Yeah, so we were at page 4 of tab 13 and I was just explaining the peculiar care that must be taken to ensure that all the arguments raised in the grounds are properly addressed and the fact that that has never been, that has never happened and separate reasons should be given for the certification. So, that has never happened, right? So, now we move on. At paragraph 17 I define and I provide an analysis of the applications relied upon as being totally without merit. Just before I go on with this particular submission, I will draw Your Lordship's attention to the fact that this was amongst the plethora of material information that was withheld from the ex parte injunction hearing, which is absolutely pertinent to the advancement of their ECRO application. It is material. It contains my version of the case. They knew it was material and they fraudulently withheld the evidence, all of the evidence that I later refer to in my skeleton.

Anyway, let us cut to the chase. Let us turn to where I have got under 17, the application that was determined by Snowdon J, right? Now this was in fact the application to deal with the fact that Mr Briggs was conflicted and had no locus from which to have heard the application to rescind but actually there is more to it than that because the petition never even existed, so that one cannot possibly be without merit. I need not harp on. We have cut to the chase. Let us now talk about the application to rescind.

Briggs was conflicted because he met with Hannon on the evening of 22 November 2017 after Briggs himself approved the confidential filings to do with the second of three

unwarranted demands with menaces originating from false instrument applications made by the Defendants, Middlesbrough Football Club, to Bristol County Court for a High Court writ in the sum of £555,000 when no such order of the Court existed. Both of those High Court writ applications were certified as true by the lawyers acting for Middlesbrough Football Club when they blatantly knew that no money was owed to them whatsoever. That is perjury, Section 5 of the Perjury Act 1911, an indictable offence for which it must be tried in the Crown Court by judge and jury. That will happen. I move on.

So, the point I make is that the application to rescind Earth Energy Investments was frustrated because Briggs was perverting the course of justice to prevent his cohorts from being prosecuted, to prevent justice from being served when Briggs himself found during that rescission application that the assignment was valid and indeed he also found that the application was on foot, meaning the application of 21 March 2018 where Mr Justice Nugee himself listed the application of 1 March 2018 relating to setting aside the order of 16 January 2017 originating the alleged 25 grand that never even existed in the first place for a hearing.

What my point is here is the law must work in both ways, however in my case there was no petition debt. There was no petition debt on the grounds that it was subject to challenge in any event but there was no petition debt because it was extinguished. I do not owe these people a penny. So, we move on. So, so that cannot possibly be without merit because in fact it is proven beyond reasonable doubt. It was adjourned to Pelling, so Pelling could be factored in to assist the offenders in evading justice. That is what he did. He evaded all of the evidence and maliciously certified applications as totally without merit without due cause or concern for the underlying merits of the case. He was perverting the course of justice. He was effectively factored in by Briggs to do what he done.

Right, so, so that application is not and cannot possibly be in any way shape or form determined as being totally without merit and yet that, that was one of the three applications that Pelling relied upon as being totally without merit. It cannot possibly be. So, therefore the ECRO that they have created, a false instrument, was dead. He created himself false jurisdiction to make it knowing that he had no jurisdiction to do so. So, I move on --

Fancourt J: But, Mr Millinder, you, you, you have applied to the Chancellor to set aside the CRO --

Mr Millinder: And he is corrupt as well. He is going to get it as well because he is also a Defendant in my prosecution who has perverted the course of justice. I will come onto that. Let me finish, please, if you may.

Fancourt J: You, you applied to the Chancellor to set aside the CRO.

Mr Millinder: I do not care, he is corrupt.

Fancourt J: He reviewed the matter and he declined to do so. You cannot go behind the fact that he has --

Mr Millinder: Well yes you can because the man is corrupt and he has perverted the course of justice. Yes, you can. No order is allowed to stand if the order is founded by a fraud upon the Court and I will come on to proving that beyond reasonable doubt to the criminal standard of proof and I will explain how in this hearing because it is pertinent that we get all of the issues tried so that you, My Lord, can make a properly reasoned decision based upon the submissions that have been made before you. That is your duty --

Fancourt J: Mr Millinder --

Mr Millinder: And you have to afford me that right --

Fancourt J: You have a misunderstanding of the, the nature of this --

Mr Millinder: No, I do not.

Fancourt J: Application and the --

Mr Millinder: I am absolutely 100% clear.

Fancourt J: I am not, not conducting an enquiry and a review into everything that has happened previously. I am solely dealing with the application to make a Civil Restraint Order today.

Mr Millinder: Well, heartening news. And this all is part of it because this is what you are basing it on. So, you have to deal with all of the issues. There is no way round it. I know what you are up to. I know what it is all about, right. You are playing with the wrong people. You are only fooling yourselves really. Anyway, so let me carry on, right? So, the point I make --

Fancourt J: If you take 20 minutes to, to do this.

Mr Millinder: No, you know full well --

Fancourt J: So, take the best bits.

Mr Millinder: No, no, you know full well that I have the right to be heard.

Fancourt J: 20 minutes, Mr Millinder.

Mr Millinder: No way am I going to be heard in 20 minutes. It is not going to happen. You have read my skeleton. There is no way that I can cover these pleadings in 20 minutes.

Fancourt J: I have read it. I have read it, right. I have read it but it does not focus on the right issue for today.

Mr Millinder: Well that, it does. It focuses on all of the --

Fancourt J: (inaudible) the one I mentioned to you previously. Now have you --

Mr Millinder: OK, well let, OK, if you want do that then, all right, let us turn to tab 28. Turn to tab 28, right?

Fancourt J: Just give me a moment to get it up.

Mr Millinder: Do not forget what I said in my emails because I am, I am a man of my word. I do what I say. I know the law. I know what all this is about. Everyone responsible for this conspiracy are going to prison, just bear that in mind.

Fancourt J: I am not sure whether that is meant to intimidate me in some way, Mr --

A

Mr Millinder: Well, no, it is not meant to intimidate. It is a fact. That is a fact. Everyone that has conspired to pervert the course of justice will be going to prison. Nobody is above the supremacy of the rule of law.

B

Fancourt J: Well we agree on that.

Mr Millinder: Good, well at least we agree on one thing, My Lord. So, have you got tab 28?

C

Fancourt J: I cannot find tab 28 in the exhibits to your, your emails.

Mr Millinder: That is convenient, is it not? Very convenient.

D

Fancourt J: No, no, it is because it is not there.

Mr Millinder: Well actually it is there because it is there --

E

Fancourt J: It is not in the emails.

Mr Millinder: Well, OK, in the emails, the three emails that I sent to your clerk, bear with me.

F

Fancourt J: Yeah.

Mr Millinder: Oh Jesus.

G

(pause)

Mr Millinder: How do I maximise this screen? The screen has gone small here. OK, so I have got the index of exhibits, right? And in the email that I sent over to your clerk I included the additional exhibits going up to tabs 38 in fact, right, but the one that I have got --

H

Fancourt J: The last of the three emails has got tabs 23, 20, 24, 22, 21, 26, 25, 29, 31, 33, 34 and 35 attached to it.

Mr Millinder: OK, well you should have 28 as well. Let me just get the email up here. This is a bit frustrating. My apologies if I have actually made a legitimate error but I do not believe, in any event it is in --

Fancourt J: I think, I think the error may be mine. It is just showing up in a different format for some reason.

Mr Millinder: OK, yeah, it is an, it is actually an image rather than a pdf. That is probably what it is, right.

Fancourt J: Yeah.

Mr Millinder: OK, so the point I am making here is that here on 12 November 2018 Staunton has U-turned on the claims just like Middlesbrough Football Club U-turned on the connection. If you look here at paragraph, sorry, paragraph 37 --

Fancourt J: Yes.

Mr Millinder: In the highlighted bits here:

> **"Cannot bring any claim against the Applicant. This is not understood. Rs do not bring any claim against A or Empowering or Earth Energy save R's claim for 25 grand under the Consent Order."**

Which does not exist anyway. So, he U-turned on the claims but he himself admitted in the ex parte note of hearing on 9 January 2017 that for the purpose of the energy supply agreement that is conditional upon my full satisfaction of the connection that they refused and the start date being the date that those conditions are satisfied, namely my full satisfaction of the connection agreement encompassing those three salient contracts that they withheld from the ex parte hearing and commissioning of the wind turbine, clearly the two go hand in hand, there is no agreement by me, i.e. entitlement to agreed output, to supply

them any energy whatsoever. And furthermore, any invoicing and payment is also contractually prohibited.

A

This is absolutely critical to my case because Staunton firstly admitted that the claims cannot be established on 9 January 2017 and then 24 days later the same Julian Gill who provided me with that ex parte hearing went and made the claim for £4,100,000. That is a claim, a proof of debt, made against Empowering Wind MFC that Hannon has retained to defraud me of my democratic right as majority creditor to prevent me from calling a meeting to replace him knowing that I had engaged with another liquidator. I wanted to call a meeting to get rid of Hannon because they were using the claim to defraud me and in full knowledge that the claim for unlawful forfeiture is proven. They cannot defend it. They could not defend it on 9 January, which is, '17, which is why they withheld 172 pages of witness exhibit, which is undoubtedly the most serious and prolific case of material non-disclosure ex parte in the history of UK law.

B

C

D

Who is covering it up? I mean who are these people? What do they think, who do they think they are dealing with? I know what it is all about. It is pathetic. But the long and short of it here, so Staunton has then U-turned on the claims, right, and at paragraph 40 here, paragraph 40 of the same exhibit --

E

Fancourt J: I am with you.

Mr Millinder: Here Staunton is saying the club's sole solicitors were not under any obligation to inform me that the petition had been presented because the petition was made covertly. Actually, it was made after 5 February 2018 when they all had in their possession the directions application I made to Nugee J in relation to their dishonesty during that hearing. So, all of this is just total madness. Anyone would know, and CPR Part 6 determines that all, all, all petitions must be served but it was never served because it was all kept hush-hush because they all knew that the alleged 25 grand never even existed. It, you know, I mean this is where we are going. It is just, it is wholesale madness. Nobody can condone it, you know.

F

G

H

So, now we move onto the authorities that I quoted at tab 27, please, My Lord. Tab 27, and this also is absolutely pertinent to the entire case in relation to the 25 grand non-existent petition debt as it is the £4,100,000 and all of the rest of the claims that they have been

bringing in insolvency proceedings, starting with the one that they used to wind up my company, Empowering Wind MFC Ltd, in the sum of £256,269.89, which Staunton presented when he knew that the claim was false. So, £181,269.89 was sought pursuant to the energy supply agreement and the other part was sought pursuant to the lease where no payment was due until 15 September 2015. That is when the first instalment was due. So, the point I make here at tab 27, I quote, in *Home v Colonial Insurance* it was found:

> **"It has long been established."**

Sorry:

> **"It has long been the law that an office holder is under a duty to examine every proof and consider the validity of the debt which sought to be proved."**

And then this is the most pertinent one underneath. In *Fraser ex parte Central Bank of London* [1892] it was found by Lord Eldon that:

> **"And the obligation is not negated even where the proof is based on a judgment. Proof upon a judgment will not stand merely upon that if there is not a debt due in truth and reality for which the consideration must be looked into. Can this judgment be treated as conclusive in bankruptcy because the debtor has unsuccessfully attempted to set it aside? I think not and I cannot see how the matter is any more res judicata because there has been an unsuccessful appeal in this Court."**

To this Court is the correct terminology. So, what I am getting at here is a very critical position in that the claim was false but Jones, who has got a long affiliation with Staunton and Hannon, who was also not a High Court judge when the application of 15 November 2017 sought to deal with all of these frauds collectively and at the first hearing Jones said, oh well, dishonesty has not been a matter because I cannot judge, actually when fraud is an issue dishonesty matters. The correct test is the test that I have applied in *Ivey v Genting Casinos*, the new two stage test for dishonesty that I have applied in the prosecution against these hoodlums.

The point I make is that Hannon even had this admission from Staunton that the proof was false and he still retained it. They are a joke. They are a complete and utter joke. They have conspired to defraud using insolvency as the vehicle to do so. Fraud against creditors is an indictable offence punishable with up to 10 years' imprisonment. There is a range of indictable offences here but the point I make is that it is not res judicata for me to make an application for this Court to amend down pursuant to the rule of law, namely Rule 14.11 of the Insolvency Rules where the company does have a very substantial asset to amend down or remove the proof that is frustrating the insolvency accordingly.

Jones failed to act in accordance with the law. That is not his problem, it is my, no, sorry, it is not my problem it is his because he is the one that is going to get dealt with for it and anyone else that acts in a similar way, rightfully, deserves to be dealt with because nobody is above the supremacy of the rule of law. I know these laws. Even by Vos's own admission he says, you are no fool, Mr Millinder, you know this game as well as I do, and described me as an expert in insolvency law. Well lo and behold I do actually know about insolvency law. I know what all these laws mean. I know their application and the fact is that there is an asset that is to be distributed as a dividend to creditors and Jones retained the £4,100,000 fraudulent claim to assist the offenders in evading justice.

But the point that I make here is, with the authority that I have just quoted, it is no, it is not res judicata for me to make another application to remove the fraudulent claim because Jones actually had no jurisdiction to hear any part of it in the first place. The application was to be heard by a High Court judge. Jones is not a High Court judge. He knew he was acting without judicial standing and therefore his order is void ab initio but moreover the application itself sought to set aside that order, that, that proof of debt, the claim in insolvency that they have all known was false. So, all of the orders by Jones were founded by fraud. They ceased to exist from the outset. He had no locus from which to have circumvented the applications. That is the second of the applications that Pelling sought to rely upon in certifying as totally without merit when in fact in law it is proven beyond reasonable doubt.

So, nobody can go anywhere with this because doing so would only affront the supremacy of the rule of law and anyone that deliberately affronts the supremacy of the rule of law will be found in criminal contempt and they will be dealt with accordingly. So, you want to squash it all down to 20 minutes but there is no way, you know, which is why I requested a

21 hour trial to deal with all of the instances of fraud because we have not come anywhere near the quantum, you know, substantial amount of perjuries, false witness statements and all of the other instances of fraud, including the fraud on the part of Staunton during that hearing of the 28th where he deliberately and knowingly misled Judge Barber where I evidenced that exhibit, I evidenced the transcript where it is proven beyond doubt that Staunton had the premediated intent to mislead the judge in relation to the cross claim he has known about all the way along. He did it. It is on the transcript. It is proven to the criminal standard of proof. Nobody can hide that.

It is there and Vos perverted the course of justice because all of that was before him and he deliberately evaded it because that is what people have been doing, siding with the offenders to prevent justice from being served on them. And that, My Lord, does indeed meet the criterion that I set out in Section 1 of the Contempt of Court Act 1981. He is in contempt of Court. He has perverted the course of justice. But in the other submission that I need to make is that I made Vos well aware of Staunton's dishonesty within his skeleton of 12 November 2018 and Vos allowed him to retract and replace his skeleton minus the dishonesty. That is why he is facing a prosecution. That is why he is off to Crown Court with the rest of these hoodlums.

Fancourt J: And me apparently.

Mr Millinder: Well the choice is yours, My Lord. I am giving you the opportunity to remedy this wrongdoing and act as an honourable and decent judge to apply and administer the law and to deal with the offenders appropriately because they have caused all of this. I am a reasonable and honest man. I act with integrity. I know what I am doing and I am willing to deal with the offenders. That is why we are here. That is why I came to Court in the first place for a remedy for the absolute wrongdoings and the injustice that these people have inflicted upon me. If the Court has not applied that then rightfully it needs to be dealt with. I am here to deal with it. That is why I came to Court in the first place.

I am not a vexatious litigant. I have got bigger and better things to get on with, with my time than all of this. All I wanted to do is build a wind turbine. To build a wind turbine we need a connection. The point I am saying is I do not want to come into a battle with the judiciary. You people have been misled by the, these hoodlums and that is the result of all of this. That is why it has happened. That is why we are in this position. That is why you yourself

admitted at the last hearing, you know, in fact 2 years 11 months and 21 days after I submitted the application to, that was circumvented by Jones that nothing has ever been tried. It is pathetic. There is no excuse for it. It is what it is. It needs to be dealt with. I am here to deal with it sensibly in a balanced and professional manner. I am also, I appreciate people make mistakes and I am willing to take that into consideration but we need to deal with the issues.

Fancourt J: Well as I said all I am dealing with is an application to make a Civil Restraint Order against you.

Mr Millinder: Well it is dead. Let us deal with it. It is dead. Get rid of it. There are no applications without merit. Nothing has been tried. You have admitted that yourself. You cannot go against your own finding. So, therefore in accordance with what I have read out to you, namely the order of the, the judgment of the Superior Court setting out those points, you cannot find to the contrary. You cannot go against a judgment of the Superior Court. You know what it is all about. It is what it is.

Fancourt J: All right.

Mr Millinder: I mean there is a lot more that I need to get out really but I, I need the application to be dealt with that I have made to be heard by the Master of the Rolls to properly get to the heart of the fraud that --

Fancourt J: You are, you are --

Mr Millinder: These people have committed.

Fancourt J: You are trying to achieve something different, Mr Millinder. You are trying to achieve belatedly a trial of the underlying issues --

Mr Millinder: Well it is not belatedly.

Fancourt J: And, and the allegations of fraud.

Mr Millinder: How can you say it is belated when in fact the Supreme Court judgment just recently that I sent you in the bundle of authorities, bear with me, you know the one that I am referring to, the one of 23 October this year, says that you can relitigate to prove fraud and in fact that particular one set aside the order from ten years prior. So, we are not out beyond the statute of limitations here. Nothing has been tried so why are you trying to limit my access to justice in this way when you full well know that nothing has been tried?

Fancourt J: I am only dealing with the applications that are before me, Mr Millinder.

Mr Millinder: Well, yeah, but nothing has been tried but --

Fancourt J: I heard the applications as the judge in the applications court last week, which is for urgent relatively short applications. It is not a --

Mr Millinder: You cannot get to the nitty-gritty.

Fancourt J: Forum for conducting a fraud trial.

Mr Millinder: Well agreed, I mean but that is what I have applied for. That was my application and that is what needs to happen, the one of the 28th. There is all kinds of wide-ranging issues in there that have not been tried in any way shape or form. They do, we do need to get to the bottom of it, My Lord. You know, it is only fair and in the interests of justice. You people need to be punishing these Defendants because they, you have to be penal by nature in relation to any fraud by lawyers. You owe a duty in the public interest to do that. You owe a duty in the public interest to conduct a diligent standard of review in relation to the most serious nondisclosure at all these ex parte hearings. We are not going to get that done in a few hours. You know that as well as I do. That is why I requested a, a 21 hour trial.

Fancourt J: Now coming, coming back to the ECRO application is there anything you want to add to what you have said. I have understood what you have said about the unlawfulness of the underlying orders.

Mr Millinder: You cannot, you cannot, well I, I go back really to the doctrine of illegality. These people cannot found a civil cause of action founded by their own illegality and

wrongdoings therefore they had no locus from which to have made the ECRO application. They had no locus to make it in the first place. All they are trying to do is circumvent and prevent justice from being served on themselves and their cohorts. That is what it is all about. So, it would be contrary to the interests of justice to make the application knowing that all of the issues have not been dealt with. So, we have got to deal with them and we will deal with them properly in a professional, calm and balanced way so that justice will be finally served. I am not going to make any vexatious applications. I am a sensible guy. I know what all this is about. I want to deal according to the law in the interests of justice to get the justice that I rightfully deserve for the wrongdoings.

Fancourt J: I understand. And I dealt last week with the application for an injunction to restrain presentation of a winding up petition and I dealt with your application to set aside the orders that were made on earlier occasions. I have now got to deal with the application for a Civil Restraint Order. I have listened to what you have said. I have understood your point of view and your argument. Is there anything else you want to say before I see whether Mr Ohrenstein wants to reply?

Mr Millinder: Well other than the fact that you cannot make, lawfully you cannot make the ECRO against me because there are not applications that are without merit and that there are arguments that have more than a reasonable prospect of success. In fact, the underlying arguments at the heart of it all were in fact proven beyond all reasonable doubt and I am correct in so far as stating the issue estoppel does apply to the findings in both the transcript and the order of 5 February 2018 by Mr Justice Nugee. It does find that the claims were also false but nothing was actually done to further that when I did in fact ask Mr Justice Nugee to recuse Jones because he had no locus. That was not done either. Maybe it is because, you know, you guys are so busy that you have to deal with things in the interim applications court and you are under such pressure that you probably do not have chance to try all of the arguments. Maybe that was the reason for the errors but there has been a miscarriage of justice. There has been serious errors that we need to get to the bottom of.

Fancourt J: Right, thank you very much. Mr Ohrenstein, is there anything you want to add?

Mr Ohrenstein: Only very briefly. What Mr Millinder is saying today is very much a repeat of arguments that he has put before the Court on previous occasions and it may assist the Court to see what, and I am sure, and I know the Court have already read it, what the

Chancellor said in his judgment, which is at page 155 of the bundle, when he was reviewing the previous ECRO because we seem to be facing a recycling of the same, the same arguments once more and everything that the Chancellor, most of what the Chancellor said on that occasion applies to Mr Millinder now. The classic scenario of someone who receives judgments from the Courts but does not, does not take no for an answer.

Fancourt J: Yes, sorry, what are you asking me to look at in the Chancellor's --

Mr Ohrenstein: So, page 155 of the bundle.

Fancourt J: I have it.

Mr Ohrenstein: It is paragraph 136 to the end of the judgment. It is only a page or so, page and a half.

(pause)

Fancourt J: Yes, I have read that.

Mr Ohrenstein: Thank you. I am not sure there is anything more that I need to add at this stage.

Fancourt J: I will give a short judgment in that case.

(judgment given)

Fancourt J: Right.

Mr Millinder: My Lord, if I may when you are ready, please.

Fancourt J: Yes, Mr Millinder.

Mr Millinder: The problem that we have with all of this is that orders can be set aside if they are founded by fraud. One nullity does not make right another and you yourself in the last hearing stated categorically that the assignment has never been tried and that the

substantive issues have never been tried but you yourself know in your heart of hearts having read my skeleton, which I am going to rely on in the Crown Court in prosecution because I do know the law, I do know what all of this is about, you are using the Extended Civil Restraining or the General Restraining Order to prevent me from my right of access to justice to conceal these blatant and outright frauds that are proven --

Fancourt J: Not to prevent it, to control it.

Mr Millinder: Yes, you do because you know what Mr Justice Nugee has been doing. But furthermore, you seek to rely on the order made by Mr Justice Murray but Mr Justice Murray never even tried the application. What Mr Justice Murray actually did, and you must consider this, My Lord, with all due respect, right, what Mr Justice Murray did is he certified my application, which was actually a combined application for an order for disclosure of the proofs of debt that Hannon is under a legal duty to disclose but did not but also disclosure of the exhibit known as AH1 that I refer to at, in my bundle tab 26, the submission against Hannon that proves to the criminal standard of proof that Hannon is guilty of perjury and it is that that I wanted to advance in my committal application against them. No committal application has ever been brought against them but yet it is proven that they are in criminal contempt of court, so, so therefore that cannot be relied upon because the application is not --

Fancourt J: Mr Millinder, it does not, it does not apply, it does not apply to criminal proceedings, it, it only *frustrates* you --

Mr Millinder: Well you are wrong.

Fancourt J: From issuing High Court and County Court proceedings.

Mr Millinder: No, no, with all due respect, if I may, practice direction 2(b) precludes the Master in law from making any order whatsoever in any case that affects one's civil liberties. The stay is an order. The law, the rule of law precludes the Master from making any order whatsoever. That is the law and there are two issues therefore. There is the practice direction 2(b) and there is, if you may, if I may take you to it, practice direction 2(b) the rule on the High Court states that a Master is precluded from making any order in a case that affects

civil, one's civil liberties and likewise, sorry, one's freedom, and likewise precluded from anything that touches upon criminal proceedings.

Fancourt J: Yes.

Mr Millinder: So, the point I make --

Fancourt J: Because those are dealt with in the Magistrates' Court and the Crown Court.

Mr Millinder: Well, no, actually they are dealt with in the Queen's Bench as well and the application I made was for --

Fancourt J: *That is a different issue*, Mr Millinder, let, just allow me to explain --

Mr Millinder: Yeah, sure.

Fancourt J: The effect of the order in fairness to, to both sides. It, it prevents you from issuing new proceedings or new applications in the High Court or the County Court without the permission of the judge. To obtain permission you have to make a formal application for permission and issue it. Not send an email to the judge's clerk or the judge but --

Mr Millinder: No, no.

Fancourt J: Issue an application. Before you issue the application you have to serve it in draft on the Club first and give them seven days in which to send any comment they wish to send. That is the process.

Mr Millinder: Yeah, well we have been through the process before. We know how it works.

Fancourt J: It does, it does not in any way preclude the request to issue --

Mr Millinder: Of course it does.

Fancourt J: Proceedings in the Magistrates' Court or the Crown Court.

Mr Millinder: That is already in, that is already done. As you know that has already been done.

Fancourt J: Whether it is done or whether you wish to do it again. What I am saying is a Civil Restraint Order, the clue is in the name, does not --

Mr Millinder: Money, my money.

Fancourt J: Have any effect in relation to criminal proceedings.

Mr Millinder: OK, I hear perfectly what are you saying there.

Fancourt J: So far as civil proceedings are concerned --

Mr Millinder: Yeah.

Fancourt J: Let me, let me try to assist. I understand your underlying complaint and concern that orders some years ago were, were falsely made, that the only way you can now attempt to deal with that --

Mr Millinder: Appeal, yeah.

Fancourt J: Is to make an, well either appeal, the Chancellor's order is out of time, if you can get permission to bring an appeal out of time.

Mr Millinder: Yeah.

Fancourt J: Or to bring a new application but it would have to be on the basis of new evidential material --

Mr Millinder: Which we have done.

Fancourt J: That was not available, could not have been available at an earlier stage.

Mr Millinder: Which we have done.

Fancourt J: If you attempt to do that and a judge who is your dedicated judge for your CRO thinks there is something in it then they will give permission for it.

Mr Millinder: OK, well the problem I have got with that, right, and I am not arguing with you I am just stating my case, which I am entitled to do, the problem I have with that is the application that came before the Chancellor sought to deal with the frauds but Lord Justice Vos never touched upon any of the frauds. He evaded everything and focussed on making the Civil Restraining Order because the fact of the matter is that this is being used to conceal the multitude of indictable offences that I have pleaded succinctly before you today that you know about that you have had in writing before you. So, all of the orders in this case have been founded by fraud because you yourself admitted nothing has ever been tried. Furthermore, you did in the last hearing, we have got note of it and I am going to refer to it in the appeal --

Fancourt J: There has never been a trial, indeed, there has never been a trial of the, the --

Mr Millinder: There has never been a trial, no.

Fancourt J: The dispute.

Mr Millinder: But, but the issues have never been tried and this is the problem. So, where I am going with this, and in particular in relation to your own order with the application I have made to set aside, is that there is no money owed to the Defendants. They have unlawfully forfeited the lease. That is already proven and it is proven that the assignment is valid, so how can you possibly certify the application seeking to set aside my right to issue a statutory demand when the debt is already proven? There are other grounds to set aside the orders because ultimately --

Fancourt J: I am not arguing with you now.

Mr Millinder: Those orders --

Mr Millinder: I am not arguing with you.

Mr Millinder: Well, yeah, it is relevant, My Lord because they are preventing me from my right of recovery of an undisputed debt that cannot be disputed in any way shape or form. There has never been a petition against me. The whole thing is invalid. All of the underlying frauds have been evaded. We cannot go on like this. It is absolutely, it is an absolute injustice. You know it is as well as I do.

Fancourt J: Mr Millinder, I think I have gone as far as I can in trying to indicate to you in, in complete fairness the way in which a --

Mr Millinder: I understand that, no, no, I understand that.

Fancourt J: Legitimate way might, might be advanced. You have got --

Mr Millinder: OK, My Lord, can I ask you to be --

Fancourt J: We are not arguing the case now and we are not debating it further. I have given my judgment. I have dealt with the application and you must make --

Mr Millinder: Can you be the judge assigned --

Fancourt J: As you think fit.

Mr Millinder: I do not need advice. You know I do not need advice. Can you be the judge assigned to the CR, the GCRO because ultimately Mr Justice Nugee is conflicted. I would like you to be the judge.

Fancourt J: Mr Justice Nugee is now Lord Justice Nugee, so he --

Mr Millinder: Well I know, so he is sitting in the Court of Appeal. Let us get it right, he is sitting in the Court of Appeal ready to circumvent this appeal when it comes and that is why I have never appealed because we have a bunch of criminals pretending to be judges who have been perverting the course of justice because they are connected with the offenders. So, there is no justice, so all of this business is actually one big fraud upon the Court and everyone is going to end up getting locked up. That is the reality of it.

Fancourt J: Let us, let us --

Mr Millinder: That is what --

Fancourt J: Move on, please. We, we have dealt with the --

Mr Millinder: Well, no, nothing has been dealt with. You know as well as I have nothing has been dealt with.

Fancourt J: Mr Ohrenstein --

Mr Ohrenstein: Yes.

Fancourt J: Will you submit in due course a draft of the order that you say is appropriate? I will consider it and make --

Mr Ohrenstein: Yes.

Fancourt J: Make the order that I think --

Mr Ohrenstein: There, there --

Fancourt J: But it will be useful to have a draft.

Mr Ohrenstein: There is, there is a draft, I will do a draft order, a freestanding order and --

Fancourt J: Yes.

Mr Ohrenstein: Then the GCRO would be the, would be on the, on the form and there is, I will send a blank form through but there is a draft of the form that that would need to be completed by the Court to allocate the correct judge --

Fancourt J: Yes.

Mr Ohrenstein: For the supervision and so forth but I will deal with that.

Fancourt J: Yes.

Mr Ohrenstein: That leaves the matter of costs.

Fancourt J: Yes.

Mr Ohrenstein: We seek the costs of the Civil Restraint Order application on an indemnity basis.

Fancourt J: Yes, we have a --

Mr Ohrenstein: We have a, we have a schedule 11.83 and that is a combined schedule.

Fancourt J: I have got a separate document that was emailed to my clerk. Let us just check it is the same one. Is it a grand total of £60,247?

Mr Ohrenstein: That is, yes, that is the same document.

Fancourt J: Right, and this is the costs of the ex parte application to Mr Justice Mann, the return date of that application, the applications for a CRO --

Mr Ohrenstein: Yes.

Fancourt J: And responding to Mr Millinder's application to set aside.

Mr Ohrenstein: That is, that is correct. This covers the three hearings and, and, and the two applications, and dealing with Mr Millinder's application, yes.

Fancourt J: Right, can you help me with this first of all? The office location of your instructing solicitors and the applicable guideline rates?

Mr Ohrenstein: I will just check that.

(pause)

Mr Ohrenstein: Sorry, bear with me a moment, I just want to check their address. I cannot see it on the emails.

(pause)

Mr Ohrenstein: Sorry, I am waiting for a message from my solicitors. Hopefully they can hear and they can send me and confirm which office it is that applies. I think everyone is working from home, so it is slightly artificial.

Fancourt J: Yes, yes.

Mr Ohrenstein: It might be in the --

Fancourt J: Is there --

Mr Ohrenstein: It might be on, on, it might be on Mr, it might be on Mr Stewart's witness statement. Let me see that.

Fancourt J: Or a letter in the --

Mr Ohrenstein: Newcastle. Newcastle is --

Fancourt J: Newcastle.

Mr Ohrenstein: Is, yeah, I am looking at page A6, yes. That is the address that is given.

Fancourt J: Right, let us have a look at the, the bands. Is it Newcastle City Centre or other Newcastle? City Centre is two mile radius of St Nicholas' Cathedral.

Mr Ohrenstein: I have not checked on Google Map, I --

Fancourt J: Let us assume it is City, City Centre.

Mr Ohrenstein: I would assume so.

Fancourt J: I imagine a firm like your instructing solicitors would be City Centre.

Mr Ohrenstein: I mean they are a national firm, so --

Fancourt J: Yes, indeed.

Mr Ohrenstein: It is there.

Fancourt J: So, the guideline rates, and my emphasis guideline.

Mr Ohrenstein: The guidelines now I understand are, are woefully out of date.

Fancourt J: Well I understand that but they are nevertheless a guideline.

Mr Ohrenstein: Yes, of course.

Fancourt J: So, it is £201 for Grade A and £177 for Grade B, which are the only two that I think are material on your costs schedule, which is in the case of Grade A approximately a half of the rate that has been charged, in the case of Mr Stewart anyway.

(pause)

Fancourt J: If you are looking it is --

Mr Ohrenstein: My Lord --

Fancourt J: Page 1459 of the --

Mr Ohrenstein: 1459, thank you. I was about to ask. 1459.

Fancourt J: Go up to the top it is Band 1.

Mr Ohrenstein: Yes.

Fancourt J: Newcastle City Centre, amongst other places.

A

Mr Ohrenstein: And so, I am looking …

(pause)

B

Mr Ohrenstein: Yes, I am just, I am looking at the notes at the bottom of 1457, I mean clearly these are guidelines:

> **"The rate to allow shall not be determined by reference to locality or**
> **C** **postcode alone."**

Fancourt J: Yes.

D

Mr Ohrenstein: And I think these, these are rates which have been in place for ten years.

Fancourt J: A starting point, no more than that.

Mr Ohrenstein: A starting point, yes.

E

Fancourt J: What, what do you, you say --

Mr Ohrenstein: And I would also be, because we are seeking indemnity costs because this
F is, this is a case which falls outside the norm, to use the, the phrase that is normally the test, far beyond, so it is only the rates that have been set in the schedule of the rates that my client is paying. It is for the Court to assess what is reasonable clearly.

G

Fancourt J: Now in terms of the costs that are claimed the other initial question I have is, how can you possibly justify 88 hours of work on preparing witness statements? £26,000 worth of work.

H

Mr Ohrenstein: Yes, that item, Item 2, has been, sorry, bear with me a moment, where, where it says dealing with the witness statement that is an umbrella term that in dealing with the witness statement as in dealing with the bundle and the documents and all matters associated with it. That time for the, the bulk of it was by one of the more junior solicitors

and that has been broken, we should have a, there should be a breakdown of that. Let me see if I can find it. That was provided to you, because I did ask, let me see if I can find that. Yes, if, if, the costs schedule that was sent to you separately it --

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Fancourt J: Yes.

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Mr Ohrenstein: Deals with, sorry, it does not seem to be there, but that, but essentially, sorry, I thought there was a bit more of a breakdown on that but there is not, what that essentially dealt with and the bulk of the time was in collating the documents for the bundle, going through the history trying to find the relevant documents, putting them in some sort of framework order and when dealing with the documents that came from Mr Millinder and so forth, trying to avoid duplication and having a bundle that was ultimately only about 1,000, 1,200 pages rather than one that was several times that length. Although, it is put under the heading witness statement a lot of that is to do with the, the collation of documents, ultimately they did not go into the exhibit, it was thought more convenient rather than exhibiting 1,000 documents to have them referred to in the bundle, in the witness statement but outside the exhibit. But that is where the bulk of the time was spent and the witness statement itself took time just go to through long history, multiple hearings over several years and so forth. Although the witness statement is, deals with things in, in summary form it is, it was necessary to go through the history and work, and extract the, the relevant parts and that took a, a significant amount of time.

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Fancourt J: Is there an exhibit to the witness statement?

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Mr Ohrenstein: The witness statement does have an exhibit, yes.

Fancourt J: Where is it?

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Mr Ohrenstein: The witness statement exhibit is, starts at page 21, page 20 is the coversheet to the exhibit.

Fancourt J: And where is the exhibit itself?

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Mr Ohrenstein: The --

Fancourt J: Oh, I see, it is all of what it is --

Mr Ohrenstein: It is what follows. The exhibit then goes on to page --

Fancourt J: 233, is that right? 234?

Mr Ohrenstein: I, it is hard to tell exactly. I can see some numbering from it. I know that documents that were originally exhibited in a draft were later extracted not to exhibit a witness statement to another witness statement and so forth, so it was --

Fancourt J: Yes.

Mr Ohrenstein: But I, we can see certainly, certainly page 80, A80, is, is, is, oh no, that is Mr Millinder's, I think it is, I think up to page 80 appears to be the exhibit because it exhibits the statutory demand and the documents that came with the statutory demand but then the approach was taken that previous court orders and so forth did not need to be part of an exhibit. That would have I think just, just confused matters, so those were then extracted and not formally within the exhibit but they still had to be collated for the purposes of the witness statement and they are referred to. And one of the features of this case is that the documentation has continually increased over the last few weeks and every time something has been put together further material has come from Mr Millinder.

Fancourt J: Glancing through Mr Stewart's witness statement it seems to me that the exhibit various pages of which are identified by him goes up to about page 230. Page A231 for example referred to in paragraph --

Mr Ohrenstein: Yes.

Fancourt J: 51.

Mr Ohrenstein: That does seem to --

Fancourt J: So, there is a reasonably substantial exhibit --

Mr Ohrenstein: Yes, yes.

Fancourt J: Of material, I can see that. Even so it is a heroic number of hours to spend preparing a relatively short witness statement and an exhibit. Yes, well shall we see what Mr Millinder wants to say --

Mr Ohrenstein: Yes, of course.

Fancourt J: About the amount of costs? Are you still there, Mr Millinder?

Mr Millinder: Yes, My Lord. I have listened to Mr Ohrenstein blabbering on about all of his fandangle ideas about witness statements and how much work they have done. The fact of the matter is that there is no substance to anything that they have done whatsoever. The fact of the matter is that all of their costs are founded by their own fraud and illegality. Just because this has not been tried substantively it does not alleviate the fact that these people are prohibited from making any gains founded by their own dishonourable course and this Court cannot lawfully issue costs against me when they, when in knowledge that they have committed serious frauds against me.

Furthermore, the costs are absolutely over-egged. It is a joke. There is no excuse for it. You know, there is no, there is no reasonable explanation that they could possibly come to as to why the costs are so high. They are just trying it on. They are using the Court as the vehicle to defraud, pumping out all of these costs, which they have done all the way along, whilst they continue along being unpunished for the frauds that they have committed. I mean look at Ohrenstein, let us be real here, you know, who is this bloke? He sits here waffling on with all of this gibberish, what has he actually done? He has submitted a less than one page skeleton. They have not done anything. They have never addressed any of my arguments that I have put forward. They, they, they have just done nothing.

They are just a bunch of clowns. They are using the Court as a cash cow. That is what they are doing. There should be no order for costs. What about all the time I have spent putting together all of this stuff against them? What about my cross-claim that extinguishes all of theirs in the first place? I do not owe them a penny. They owe me millions. You cannot order costs. I do have a claim against them. I do have a cross-claim and it extinguishes all their costs. You cannot, you know, if they owe me 20 grand I am not going to pay them back a pound. That is how it works. It is dead, finished.

Fancourt J: Is there anything you want to say about the amounts of individual items of costs?

Mr Millinder: Well it is all, it is all overinflated total nonsense. That is what it is. It is all overinflated. You know, there is no other way around it, it is overinflated. They are using the Court as the means to defraud. That is it. You know, the, the costs should not be awarded. They cannot make gains founded by their own frauds. You know that they have committed frauds, so how can you possibly issue them gains founded by their frauds? Just because these orders have not been set aside it does not alleviate the fact that they are still guilty of fraud. That is the position. You cannot lawfully allow these people to make gains in the civil context founded by their own illegality. You cannot do it.

Fancourt J: In Civil Courts costs usually follow the outcome of the, the applications.

Mr Millinder: Yeah, but --

Fancourt J: The applications that I have heard I have already decided last, last Friday that the Club should have its costs of those two applications. It seems to me they should also have their costs of the Civil Restraint Order application because, only because they have succeeded on the application as, as brought, so the remaining question is about the amount of the costs.

Mr Millinder: That does not alleviate the fact that their cause is dishonourable and in law the doctrine precludes them from founding any action in the Civil Court because it is all founded by their own illegality. You cannot go against the law and that is what is happening here. You are not, you are not acting in a lawful way unfortunately. You are not acting in a constitutional and proper way, My Lord, and that is the problem.

Fancourt J: You are asking me to assume that there is illegality when there has never been a trial and no illegality has been found.

Mr Millinder: Well you, you and I --

Fancourt J: But it is not, it has to be proved and it has not been proved.

Mr Millinder: You have (inaudible) and you know what it is all about. Well it is never going to be proved because you have refused my trial and you yourself has refused the right of access to justice, preventing justice from being served on them. That is the reality of it. You yourself admitted, have admitted that nothing has been tried and then you prevent me from the right of a trial. How does that work? It is not rocket science. It is outright (inaudible). It is nonsense, absolute nonsense. There is no use for it. You are asking me to appeal but what is there to appeal when none of the issues have ever been tried? It is all a big farce. A big spin of legal trickery and deceit to prevent justice from being served on the offenders. That is the reality of this position. None of my applications are without merit. You can harp on till the cows come home but there is no legal validity here and I know it as well as you do. So, it is just a nonsense. Let us get with the programme. Deal with it.

(judgment given)

Fancourt J: Is the, the Club presumably is VAT registered, so it can recover the VAT that it has to pay, Mr Ohrenstein?

Mr Ohrenstein: Yes, I believe this does not actually include VAT on the figures.

Fancourt J: No, probably for that reason. Very well, then the, the total amount is £45,000.

Mr Ohrenstein: Thank you.

Fancourt J: Costs assessed in that amount. Right, thank you very much.

Mr Ohrenstein: Thank you.

Fancourt J: That concludes the hearing. Thank you very much.

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