

**IN THE CROWN COURT AT SOUTHWARK**

**Regina**

**-v.-**

**David Mills [DM], Lyndon Scourfield [LS], Michael Bancroft [MB], Mark Dobson [MD],  
Alison Mills [AM] and John Cartwright [JAC]**

**SENTENCING REMARKS**

**of His Honour Judge Beddoe sitting on the 2<sup>nd</sup> day of February 2017**

**General observations.**

I have read all that counsel has submitted to me since Monday whether by email or by presentation in court here today.

**Pleas.** Only one of you gets credit for pleas of guilty. Unfortunately the rest of you insisted on a trial and in each of your cases you were found out.

**Character.** But for MB and JAC you are of previous good character; I have taken take that into account in considering the right starting points for sentence; but the more serious and the more numerous the offences for which I have to sentence you the less significant that becomes. So it counts more for MD and AM and less for DM and LS. Bad character is to some extent an aggravating feature in the cases of each of MB and JAC, but it is no more than that. Although you could and should have been prosecuted for your involvement in Ritz (it might have reduced the opportunity to DM to make use of you) it is not part of the

exercise here for me to consider, let alone to include, what might have been the sentences passed for that offending.

**Delay.** It is a long time since these offences were committed. For the most part it is ten years and more. Although this been in one sense a true example of the long arm of the law, delay is something I have taken into account but again to a limited extent. Until 2010 you may probably thought that you had got away with it. By 2011 you were all fully aware of the enquiry which was being carried out by Thames Valley Police [“TVP”] and between 2011 and 2012 variously given the opportunity on a number of occasions to assist TVP with it. But for DM and JAC, the rest of you really chose not to do so. That does not necessarily make much of a difference between you: much of what DM told the police has for the most part been proved to be a lie. Much of what JAC said was very close to an admission of guilt, and more’s the pity that you did not plead to what you have now been convicted of.

There are two main reasons why this case has taken so long to be resolved – (i) until August 2016 all of you insisting on a trial; and (ii) the enormity of the case. However there were also serious failings on the part of the Crown to get to grips properly with disclosure. This explains at least 2 years of delay and, to a limited extent, I have taken that into account. For some of you, I am not persuaded that this has really added anything to your plight; had, for example, you had admitted it to the police or pleaded guilty and had had to wait an inordinate amount of time for sentence (because others had insisted on a trial) it would be of much greater value. Indeed I am quite sure that DM, for example, has simply and smugly continued to enjoy the fruits of his wrongdoing and can have really no complaint about the delay. For others such as LS and MD, properly dismissed from their banking careers and in difficulty of finding alternative forms of employment, it may be different and the added delay and the additional hardship from it I have had some regard to. In the case of MB and JAC they have now completed three score years and ten.

I have been asked in the case of some to take into account the hardship caused to their families by a sentence of imprisonment. I cannot help but think that these are things defendants should have thought about before they decided to do what they did, and, if, for example, members of MB's family think he is an honest and lovely man they are sadly

blinkered from reality, and their submissions give no consideration for the crimes he committed nor the damage and destruction he quite wilfully caused to his many victims.

However, but for the factors of delay, age, familial hardship and totality, for all of which I have made some allowance, the terms I shall in due course impose for the fraudulent trading offences would have been longer; and some of the sentences to be passed will be concurrent.

**Guidelines:** There are applicable guidelines for count 6 [m/l], but because of the age of these offences, there are no applicable guidelines for any of the other counts. The SC Guideline on bribery has been of use to the Court in assessing seriousness, but I have maintained careful regard to the fact that the maximum for corruption, as it was then described, is 7 years, and that for bribery, as now, is 10. However I also remind myself that the CACD has said before now that the maximum sentence for an offence may be entirely appropriate even if it is possible to contemplate more serious iterations of it than the offending in question.

The Sentencing Council Guideline on Fraud and Bribery helpfully also reminds the Court that consecutive sentences for multiple offences may be appropriate where large sums are involved. That observation potentially applies in fact to all kinds of offences where they are both serious and distinct, but as has been said today, where there is an obvious overlap between a primary offence and a count of m/l the proceeds of that offence the court must be careful that that overlap is properly reflected in the sentences passed. Elsewhere I have had to be careful to avoid "double accounting" - for which reason the sentences for fraudulent trading focus less on the personal profits to DM and MB from the retention of their services through QCS and RPC and more on the additional deprecations they made on the companies concerned as a result of the deliberate mismanagement of these companies and the separate plunderings made from them in the course of it.

I also remind myself of totality of sentence. As well as for age [but only in the case of MB and JAC], personal hardship where appropriate, and delay, I have made some allowance for totality. Without these considerations the terms in particular for the fraudulent trading offences would have been longer and some of the sentences to be passed will be concurrent.

In summary the sentences I pass are intended to reflect my assessment of the overall criminality of each of you in this case. Other courts might take a different route in the course of that exercise but, would and should I believe, reach the same destination.

**Time to serve.** Of the sentences I pass in due course as you will already know in the ordinary course of events you will serve half the overall sentence imposed and you will then be entitled to be released on licence with the balance suspended.

**The case, an overview:** So much has been said and summarised about this case in court today that little is to be gained, before proceeding to individual sentences, by saying very much about it. It will have been obvious from the Crown's opening today that this case is not simply about a corrupt bank manager lending money he should not have done to businessmen who went on to gamble with it. This case goes very, very much deeper than that. It primarily involves an utterly corrupt senior bank manager letting rapacious, greedy people get their hands on a vast amount of HBoS's money and their tentacles into the businesses of ordinary decent people – in the cases certainly of Theros, Remnant and Simon Jay - and letting them rip apart those businesses, without a thought for the lives and livelihoods of those whom their actions affected, in order to satisfy their voracious desire for money and the trappings and show of wealth.

The corruption, which profited mostly the first three defendants, subsisted for at least 4 years. It involved LS engaging in as extensive an abuse of position of power and trust as can be imagined and was motivated on both sides of the corruption by the expectation of, and the very considerable realisation of, immense financial gain. That was at the cost of

enormous losses to BoS of some £245 million [gross], but also and, in many respects worse, the destruction along the way of the livelihoods of a number of innocent hard-working people. Some of these connections were capable of rescue but what LS let happen through DM and MB predominantly ensured that they would not.

The harm for which you were individually and collectively are responsible can of course be quantified in cash terms, but cannot be so in human terms. Lives of investors, employers and employees have been prejudiced and in some instances ruined by your behaviour. People have not only lost money but in some instances their homes, their families, and their friends. Some who would have expected to be comfortable in retirement were left cheated, defeated and penniless. These are circumstances in which you DM and MB in particular show not a shred of remorse.

#### **Individual roles.**

**DM.** You corrupted not just one but two senior members of the bank, finding people like you who had an exaggerated opinion of the value of money. You had your suckers into LS, and through him you sought to leech the victims of his referrals dry and that most assuredly you did.

And later you prised open MD – who succumbed to the temptations I am sure you laid in his path and you got him to do your bidding too.

You are a thoroughly corrupt and devious man, adept at exploiting the weaknesses of others, particularly where that weakness is money, and adept too in getting others to do your dirty work for you. Standing in the shadows, you had MB and his loyal lapdog, JAC, to get their hands dirty at your direction, and for your mutual financial advantage. In your case, compared to them, it has to be said, a staggering financial advantage.

You ran Clode as if the money you got LS to advance to it was your own. And you spent it.

I consider it properly can be considered, and should be considered, separately from the other counts not least because the spread of the profligacy was mainly focussed in many other dishonest directions than Theros or Remnant.

With MB you ran Theros and MSG so that you could squeeze money from HBos thro LS in the same way, so you could milk it for in fees to QCS (over million) and in personal fees through RPC. Between you, you forced out JMoss, Mr. Stewart and Miss Levitt, acquiring their shares in the process; and ran it for as long as you could milk it, ignoring at every turn the wisdom of TH, CLevy and GB that everything MB did was either dishonest or a disaster.

For Simon Jay and RM it was more of the same as far as each of you was concerned. In respect of the latter you tricked SR into more and more borrowing which you were able to lend via Clode because of the corruption between you and LS, picking off from the loans exhorbitant and unjustified fees, and then when it suited picking off the better assets that it had for a song with money that was not yours.

**LS.** I do not know when or how DM got his hold on you, but that he did. He is the devil to whom you sold your soul. For sex, for luxury trips with and without your wife; for bling and for swank. In return for selling that soul, and for as gross and persistent a breach of trust as I have come across in practice or on the bench, what you got back was relatively trivial compared to the millions you enabled DM, MB and others to leach out of HBOS, and to leech more from the companies which you insisted should engage the utterly questionable services of DM's company, QCS and his team of turnaround consultants, not to forget the services of DM himself, posing as RPC, or those of MB whom you forced onto the board of Theros, RM and other connections under your effective control.

As you knew DM and MB did little or nothing for most of these companies except bleed them, and pick off from time to time, such assets as they thought they could make money out of, using the bank's money to do so. You could see it and you enabled it to happen time and time again.

Through Clode you gave DM the means to borrow money effectively for nothing so he could gamble with it in loans to other IAs (from which he would get an immediate kickback from – in set up fees and dividends) or so he could effectively simply spend it on the things that he could not do without such as a yacht.

Yours was a monumental betrayal of your position – exploiting the obvious weaknesses in the bank's systems and the lack of proper supervision to which you should have been subject, lying to your seniors, falsifying documents, removing or avoiding protections the bank should have had ... all over a long period of time ... wholly motivated by greed ... mesmerised by the luxury in which as a result of what you did DM let you wallow.

I have read your letter and I am encouraged that you are remorseful for what you have done. Disappointingly, and it might have helped to persuade me that yours is real remorse rather than regret; you give me no explanation for why you did what you did nor why you did not admit it once you were found out.

**MB.** You were already clearly a thoroughly dishonest man as shown by what happened at Ritz (an aggravating feature in your case). You were DM's frontman and heavily engaged in the process of maintaining the hold both you and he had on LS. You are clearly a bully, and with DM you plundered Theros, MSG and RM for fees and any useful assets you could get your hands on.

In the letter – written it seems before verdict but rightly anticipating what that verdict would be - you profess remorse for your mistakes but you tell me nothing about why you made them, and you ask me to take into account how affected your family will be by your incarceration.

You have put up no case since 2010 and none in this trial – the only conclusion I can reach is that this is because you remain the sidekick of your old friend, DM, and could not countenance doing anything that might harm his interests. So you have put his interests and your own before those of your family, yet you now ask *me* to think of them for *you*.

**MD.** You are a foolish man. You could not resist the lure of luxury and largesse that DM was prepared to put your way if you helped him do as LS had been doing. And so in 2005 and through to the end of 2006 you were part of his circle – going on jollies with him, and significantly LS - and prepared when you could to do DM's bidding for kickbacks in cash or for jollies. Le Caprice, Ascot, Bangkok – they all came your way as a result of corruption and for no other reason; you were even, tellingly, at a Christmas party funded by Magenta, which was not a connection of yours.

In serious breach of trust you took the freebies and you took the cash [I doubt it was just that £30k – but the amount you got is less important than what you did]. You took it to help DM, as I am sure you did, with getting the unpaid interest written off on SDC, for which you were the RM, just as you more obviously played your part in arranging that DM got the £152k following the sale of the Area Nightclub; to a penny of which he was not entitled. That money belonged to the creditors of Eyesaglow to whom it should have been paid.

To favour your paymaster DM you contrived to represent it as money due to the bank. What aggravates your position, in my judgment, is not only how you engineered that payment to be made to DM but how you lied about it over the following three years when the administrator and in turn the liquidator were making proper enquiries about it.

So not once but twice, as a result of the corrupt relationship that there was between you and DM, you did two very substantial acts to his significant financial advantage and to the serious disadvantage of those who employed you and the creditors of Eyesaglow.

And the way in which you have dealt with that and this case as a whole leads me to no other conclusion that but for the enquiry that began in late 2006 as to what had been going on at Reading that relationship would have continued.



**AM.** You are an intelligent woman, very experienced in ways of business, who the jury were sure knew what DM and LS were up to, at the very least, it seems to me, in so far as how and why he was getting all these assignments for QCS and for RPF - and the relationship of the two men was one you played a very large part in fostering.

From QCS alone those spoils were considerable, as you knew from chasing LS over payment for them. You would know that it would be highly irregular for someone such as LS to be sanctioning such extensive use of your company QCS and for him to be involved so directly in the payment of debts of his connections to a third party co., such as yours.

You knew that the payments to QCS were grotesque and bore no reflection on the work being done by QCS or your husband. £3m. from QCS and £1.5 from RPF.

Given all that I have heard I am quite sure your relationship with LS and his wife was a *sham*. Not only did DM drop LS like a stone, but so did you.

DM let slip that in Barbados you were aware that LS had an Amex card on his account ... but I am sure it was well before that that you knew what was going on, and you did not just sit to one side and let it happen. You knew what effect it had on your husband's fortunes and you savoured the spoils from it and you assisted in their profligate and vulgar consumption, part of which included LS in order to keep him sweet.

Your role is not as was submitted for you "at a minimal level". It was a significant and over a sustained period of time.

Quantifying for the purposes of sentence is difficult taking into account Category - 3B.

**JAC.** You are a weak and very dishonest man, enthralled to some degree by money but oddly even more enthralled, for some unknown reason by your friend, MB. Maybe it is simply that your financial circumstances have always been improved when you are "working" (somewhat straining the meaning of that word) with him.

You criticised LS in your evidence for being in the thrall of DM and MB and so desperately wanting to be their friend and equal; but that criticism applies to you and the way you have for so long been prepared to assist MB's rampant dishonesty. You did it at Ritz for him over

three years and you did it for him with MSG for two. He was as you said to the police and to AB, someone for whom you said you would *almost* do anything.

In the period from 2006 to 2008 you were fully aware what going on, and therefore over a significant period, played an important role for DM in the fraudulent trading of MSG and the laundering of the funds in the CPL account, not least as co. sec. for MSG contriving to lead the administrator into Magenta away from that money or what was then left of it, which you then helped to dissipate. Overall you played a large part in the money laundering of that £400k and emptying it from the CPL account.

As I have said I do not sentence you for it, but your previous conduct at Ritz is obviously an aggravating factor in your case (it ranks as if a previous conviction).

If I take into account what you are found to have done on count 4 – I think you fall into the lower half of Category - 3B as far as the guidelines on m/l are concerned.

### **Sentencing:**

**DM** - stand up please. Under the CDDA you will be disqualified for 12 years.

On count 1 – 7 years; on count 2 – 4 years; on counts 3, 4 and 5 – 4 years; count 6 – 7 years; the sentences on counts 1 and 2 are consecutive; the sentences on counts 3-5 are concurrent with each other but consecutive to counts 1 and 2; the sentence on count 6 is concurrent. Accordingly the total in your case is a sentence of 15 years.

**LS** – stand up please – I see no real reason to distinguish between you and DM so the starting points are the same.

On all the counts for which I have to sentence you I give you the 25% credit I promised I would. Under the CDDA you will be disqualified for 9 years.

On count 1 – 5 years 3 months; count 2 – 3 years; counts 3, 4 and 5 – 3 years; on count 6 – 5 years 3 months. The sentences on counts 1 and 2 are consecutive; the sentences on counts 3-5 are concurrent with each other but consecutive to counts 1 and 2; the sentence on count 6 is concurrent. Accordingly the total in your case is a sentence of 11 years 3 months.

**MB**– stand up please –

Under the CDDA you will be disqualified for 15 years. [I bear in mind that had the law taken its course in 1991 it is inescapable that you would then have been disqualified under the act for many years – a distinction which DM does not share with you]

On count 1 – 6 years; on counts 3-5 – 4 years on each concurrent but consecutive to the sentence on count 1; on count 6 – 6 years concurrent. Accordingly the total in your case is a sentence of 10 years.

**MD** - stand up please – on m/l guideline you stand in cat/A4 with a sentencing bracket of 3 to 6 years. you would be looking at a sentence of about 4.5 years.

There is no SC guideline for corruption – but you would fall within a similar sentencing bracket [cat.A2] were I sentencing you for bribery [before taking into account that the maximum for that offence is greater].

As I consider the 2 counts in your case mutually aggravate each other, bearing in mind all the matters I have said I would take into account, the appropriate sentence is:

On counts 1 and 6 – 4 ½ years on each count concurrent.

**AM** - stand up please – [Category - 3B]

On count 6 – 3 ½ years imprisonment.

**JAC** - stand up please –

Under CDDA – (bearing in mind all that happened at Ritz) you are disqualified for 10 years.

The two counts in your case mutually aggravate the other and justify concurrent sentences.

On counts 4 and 6 – 3 ½ years concurrent.

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