Neutral Citation Number: [2024] EWHC 2776 (Ch)

Claim Nos: BL-2021-001939 / BL-2021-002082

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
BUSINESS LIST (ChD)

Royal Courts of Justice
Strand, London
WC2A 2LL

Date: Wednesday, 30th October 2024

Before:

MR. JUSTICE RAJAH

- -

Between:

BARCLAYS BANK PLC	**Claimant / Applicant**
- and -	
(1) SCOTT DYLAN **(2) DAVID SAMUEL ANTROBUS** **(3) JACK MASON**	**Defendants / Respondents**

- -

- -

MR. ANTHONY PETO KC and **MR. JAMES KNOTT** (instructed by **Eversheds Sutherland (International) LLP**) appeared for the **Claimant**

MR. IAN BRIDGE and **MS. GURPRIT MATTU** (instructed by **Lewis Nedas Law**) appeared for the **First Defendant**

MR. JOHN MCKENDRICK KC and **MR. ANSON CHEUNG** (instructed by **Janes Solicitors)** appeared for the **Second Defendant**

MR. JAMES COUNSELL KC and **MR. MICHAEL UBEROI** (instructed by **Janes Solicitors**) appeared for the **Third Defendant**

- -

Approved Judgment

Digital Transcription by Marten Walsh Cherer Ltd.,
2nd Floor, Quality House, 6-9 Quality Court, Chancery Lane, London WC2A 1HP.
Telephone No: 020 7067 2900. DX 410 LDE
Email: info@martenwalshcherer.com
Web: www.martenwalshcherer.com

MR. JUSTICE RAJAH :

Introduction

1. At the end of June and the beginning of July this year, there was a trial, over nine days, of applications made by Barclays Bank Plc ("**Barclays**")to commit each of Scott Dylan ("**Mr Dylan**"), David Antrobus ("**Mr Antrobus**") and Jack Mason ("**Mr Mason**") (together, the "**Respondents**") for breaching three freezing orders.

2. On 23 March 2022, virtually an entire group of 60 companies ultimately owned and controlled by the Respondents, with Mr Dylan's partner, through two English holding companies, was transferred to two companies in the British Virgin Islands. Although not all of the companies were the subject of freezing orders, certain companies clearly were and their transfer abroad was a breach of at least three freezing orders.

3. On 2 July 2024 (the fifth day of trial) Mr Dylan accepted he was in contempt of court in respect of two of the four charges levelled against him.

4. On 31 July 2024, I handed down judgment on liability in respect of Mr Antrobus and Mr Mason. I found that this was a joint enterprise by all three Respondents to move the companies out of the jurisdiction and Mr Antrobus and Mr Mason were guilty of four counts of contempt of court.

5. The full background is set out in the judgment on liability ("the Liability judgment"), which can be found at the National Archives as *Barclays Bank PLC v Dylan, Antrobus and Mason*, [2024] EWHC 1994 (Ch). In these sentencing remarks, I will use the definitions which I used in that judgment.

6. The specific counts of contempt which I must pass sentence today are as follows:

    a. **Count 1 (in respect of all three Respondents)**: on or about 23 March 2022, knowingly assisting in and/or permitting breaches of the FTG Freezing Order being: (i) the transfer by FTG on or about 23 March 2022 of its 50 ordinary shares in ICGL out of the jurisdiction to Investments Holdings; and (ii) the transfer by FTG on or about 23 March 2022 of its 4,115 ordinary shares in ILGL out of the jurisdiction to Investments Holdings.

    b. **Count 2 (in respect of all three Respondents)**: on or about 23 March 2022, knowingly assisting in and/or permitting breaches of the ITG Freezing Order being: (i) the transfer by ITG on or about 23 March 2022 of its 1,154,000 ordinary shares in Baldwins out of the jurisdiction to Travel Holdings; and (ii) the transfer by ITG on or about 23 March 2022 of its 100 ordinary shares in ITOL out of the jurisdiction to Travel Holdings.

    c. **Count 3 (in respect of Messrs. Antrobus and Mason only)**: between 23 and 28 March 2022 knowingly assisting in and/or permitting the breach of the FTG Freezing Order, being the release or transfer of the FTG liability assets and the release of the FTG Baldwins debenture.

    d. **Count 4 (as amended) (in respect of Messrs Antrobus and Mason only)**: (i) as against Mr Mason, the breach of the Jack Mason Freezing Order consisting of the

purported transfer of Jack Mason's shares in ICGL to Investments Holdings and the filing of the documents with Companies House in September and October 2022, which indicated that Investments Holdings had been the owner of Jack Mason's shares in ICGL since 23 March 2022; and (ii) as against Mr Antrobus, Mr Antrobus's knowingly assisting and/or permitting Mr Mason's breach of the Jack Mason Freezing Order.

7. Mr Mason was represented today by solicitors and counsel, but he has absented himself. On 24 October 2024, Mr Mason's solicitors e-mailed the Court to say that Mr Mason did not intend to attend the sentencing hearing, had been advised of his obligation to do so and the consequences of not doing so and understood them. Mr Mason's non-attendance is in breach of an undertaking he gave the Court of Appeal, which was fortified by a sum of £5,000 held by his solicitors. I have already made an order in relation to Mr Mason's breach of his undertaking by ordering the forfeiture of the security which had been provided for his undertaking. This is deliberate non-attendance and I consider it appropriate to sentence him in his absence, particularly as he is represented by Mr Counsell and solicitors and still providing them with instructions from abroad. Any sanction for his non-attendance today will be left until another day. If he returns to this jurisdiction, he will be arrested and the matter can be brought back before the court by Barclays.

8. Mr Antrobus also did not attend today, informing his solicitors of this early this morning. He is in Ireland but has refused to disclose his address to his solicitor. The explanation I have received today from Mr McKendrick is that he is suffering from panic attacks and anxiety and he does not feel able to get on an aeroplane and attend court, even if I adjourned the hearing to this afternoon.

9. There is some support from a psychiatric report that has been filed today that he has anxiety and there is reference in that report to the fact that, in the past, he has had panic attacks. I am nevertheless not satisfied that this is not deliberate non-attendance. No medical evidence has been produced in support of the contention that he was too ill to travel today. He is here still fully represented by counsel and solicitors. They have filed skeleton arguments He recently prepared medical evidence in support of his mitigation and apparently instructed them yesterday not to pursue a particular application today in relation to confidentiality. He is clearly still giving them instructions. I therefore propose to continue to sentence him today.

10. I also do not lose sight of the fact that Mr Dylan has presented himself and is sitting here in court today, represented by solicitors and counsel and expecting to be sentenced. It is important that all three Respondents are sentenced together and is not fair to adjourn Mr Dylan’s sentencing to another date to see if Mr Antrobus will appear.

Summary of the facts

11. On 18 November 2021, Barclays commenced two connected sets of proceedings against a number of parties, including each of the Respondents, FTG and ITG. In the proceedings Barclays allege that there was an unlawful conspiracy to take advantage of automated decision making at Barclays to make unauthorised borrowings through group companies which were paid away. It claims loss of at least £13,734,716.

12. Barclays applied for and obtained a number of freezing orders, including freezing orders against FTG, ITG and Mr Mason prohibiting them from disposing of, dealing with or diminishing the value of any assets within England and Wales up to the value of that sum of £13,734,716.57.

13. As set out in paragraphs 22 to 39 of the Liability judgment, what has happened is that virtually an entire group of some 60 companies has been transferred out of the country. FTG (a company which was owned equally by Mr Dylan, his partner and Mr Antrobus) and ITG (a subsidiary of ICGL, a company owned equally by FTG and Mr Mason) have been left in administration, as empty shells.

14. **Count 1** relates to the transfer away from FTG to a BVI company of all its assets (apart from one subsidiary company in liquidation) on 23 March 2022. These assets represented its shareholding in top-level group companies, and included its 50% shareholding in ICGL. Mr Mason owned the other 50% of ICGL. ICGL had a number of subsidiaries, one of which, ITG, was the subject of a freezing order. **Count 2** relates to the transfer away from ITG to a BVI company on the same day of all its assets, including its 100% shareholding in Baldwins Travel Agency Ltd.

15. The evidence at trial showed a strong connection between the BVI companies and a Delaware company, referred to in the judgment as GIMH. The evidence at trial showed a strong connection between GIMH and the Respondents. There were documents prepared by Mr Dylan, which were not intended to see the light of day, that appeared to show that GIMH was owned equally by the Respondents.

16. It is not clear how valuable the transferred companies were. Mr Dylan procured an overnight valuation in March 2022 that FTG and ITG were valueless to justify a transfer of the companies for nominal or low consideration (which was not in fact paid). A further valuations procured by Mr Dylan in September 2023 has been relied on by Mr Bridge today. These are desktop valuations based, it seems, to a very high degree on information supplied by Mr Dylan and heavily caveated on the basis that the reports are based on information which the accountants have not been able to verify (see in particular the ITC report). There are significant discrepancies between the information used in the valuations and the information known from publicly filed accounts and records. For example, FTG's last filed accounts for the year ending 30 June 2020 disclosed shareholder funds of over £2.7 million with assets including investments valued at over £3.8 million. In a witness statement served on behalf of FTG and ITG by Mr Dylan on 8 February 2022, i.e. the month before these transfers, it was said that the group had a turnover of more than £130 million.

17. This was a deliberate and planned flouting of the freezing order to move assets out of the reach of this Court. This was a joint enterprise by all three Respondents, who were the founders, owners and leaders of this group of companies. It was a planned transfer of assets out of the jurisdiction to new vehicles which they were each interested in. It was a not unsophisticated plan – the complexity was in making it hard to prove what had occurred. Mr Dylan appears to have been the "brains" who cooked up this plan but they have all gone along willingly with it. As part of the plan Mr Antrobus resigned as a director of FTG and Mr Mason resigned as a director of ITG the day before the transfers to assist the plan and obfuscate the involvement of the Respondents. After the transfers administrators were put in place to provide a further buffer between Barclays and the Respondents in the provision of information. Documents and filings at

Companies House were manipulated. I regard there as being only a marginal difference in the culpability of each Respondent in respect of counts 1 and 2. Mr Dylan may have had a leading role, but Mr Antrobus and Mr Mason are confident, astute business leaders who fully signed up to the plan. They were neither naive followers nor bullied into going along with these plans.

18. Count 3 only concerns only Mr Antrobus and Mr Mason. This is because in light of his admission of Counts 1 and 2 Barclays did not pursue Counts 3 and 4 against Mr Dylan. Count 3 relates to the discharge of a debenture and mortgage of chattels which FTG held as security over Baldwins Travel Agency (the FTG/Baldwins debenture). Between 23 and 28 March 2022 any debt owed to FTG and the FTG Baldwins debenture were released by FTG. Barclays maintained, on the basis of Baldwins' 2021 audited accounts, that FTG was owed up to £2,688,485. At trial, I accepted that Barclays had proved to the criminal standard that the FTG Baldwins debenture secured the repayment of at least £350,000 and that both Mr Antrobus and Mr Mason could and should have stopped its release.

19. Count 4 also only concerns Mr Antrobus and Mr Mason. This is a transfer purportedly dated 23 March 2022 transferring Mr Mason's 50% interest in ICGL to a BVI company. This was dishonestly backdated in October 2022 when Mr Mason was facing bankruptcy proceedings threatened by Barclays. This transfer was carried out to prevent the shares falling into the hands of a trustee in bankruptcy who might investigate the March transactions, including the transfer of ICGL's interest in five of its subsidiaries to the BVI companies (which itself was not prohibited by the freezing orders). Mr Antrobus and Mr Mason were directors of ICGL and could and should have stopped the filing of documents at Companies House in relation to this dishonest transfer.

20. Since then, all three Respondents have not co-operated. Until very recent developments, they continued to run the group of companies as before but refused to provide information as to what had occurred to Barclays. Mr Dylan wrote anonymous letters from a non-existent Legal Department to Barclays putting up the shutters on the provision of information and raising legal arguments why the Respondents were not responsible for what was said to be a good faith, arm's length sale of the business to independent third parties. They have obfuscated and created false stories and explanations such as the false story that the transfers were carried out by a Mauritian director called Rea Barreau and the false story that Mr.Mason's ICGL shares had been transferred pursuant to the terms of various initially unidentified and undisclosed agreements.

21. They have presented a united front in fighting Barclays and these contempt proceedings until at least very close to the start of trial. As Mr Peto, on behalf of Barclays, says this could be described as a two-year conspiracy. As I found at the trial, all three have lied to the Court on a prolific scale.

22. The Respondents have had ample time to reverse what they have done but they have not done so. There is no sign that they have any intention of returning the assets to this jurisdiction. This is, in substance, a continuing breach.

Legal Principles

23. The relevant principles can be extracted from the judgment of Johnson J just a few days ago in *HM Solicitor General v Yaxley-Lennon* [2024] EWHC 2732 ("*Yaxley-Lennon*") at [33] – [39] and [45],:

> "33. If the court finds that the applicant has proved her case, and that the defendant is therefore liable for contempt, it may impose a sanction for the contempt. The purpose of imposing a sanction is to punish the breach of the injunction, to encourage belated compliance, and to deter future breaches of court injunctions: *National Highways Ltd v Buse* [2021] EWHC 3404 (QB) *per* Dingemans LJ.
>
> 34. The sanctions that may be imposed are a period of imprisonment, a fine of unlimited amount, sequestration (confiscation of assets) or other punishment permitted under the law: CPR 81.9(1). Or it may impose no order or adjourn the case: *Hale v Tanner* [2000] 1 WLR 2377 *per* Hale LJ at 2381A. Community orders that are available under Part 9 of the Sentencing Act 2020 when sentencing for a criminal offence are not available as a sanction for contempt of court.
>
> 35. A sanction may include both a penal element and a coercive element. The latter may be remitted of the contemnor purges his contempt: *McKendrick v Financial Conduct Authority* [2019] EWCA Civ 524 [2019] 4 WLR 65 *per* Hamlen LJ and Holroyde LJ at [41].
>
> 36. A period of imprisonment is imposed by way of an order of committal. Execution of the order requires the issue of a warrant of committal. The court may suspend execution of the order or warrant of committal: CPR 81.9(2). The length of the term of imprisonment should be determined without reference to whether it is to be suspended: *Hale* at 2381B.
>
> 37. If a contemnor is committed to prison, then the term imposed must be as short as possible consistent with the circumstances of the case: *Claire A v George A* [2004] EWCA Civ 504 *per* Clarke LJ at [14].
>
> 38. The maximum term for which a contemnor, on one occasion, may be committed to prison is 2 years: Section 14(1) Contempt of Court Act 1981. That is so, however many separate acts of contempt have been proved: *In re R (A Minor) (Contempt: Sentence)* [1994] 1 WLR 487 *per* Sir Thomas Bingham MR at 491A-F.
>
> 39. If a term of imprisonment is imposed, the Secretary of State must release the contemnor unconditionally once they have served one-half of the term for which the contemnor

> unconditionally once they have served one-half of the term for which the contemnor was committed: Section 258(2) Criminal Justice Act 2003."

…

45. The approach to be taken by the court was summarised by the Supreme Court (Lord Lloyd-Jones, Lord Hamblen and Lord Stephens) in Supreme Court decision in *HM Attorney General v Crosland* [2021] UKSC 15, [2021] 4 WLR 103:

> "1. The court should adopt an approach analogous to that in criminal cases where the Sentencing Council's Guidelines require the court to assess the seriousness of the conduct by reference to the offender's culpability and the harm caused, intended or likely to be caused.
>
> 2. In light of its determination of seriousness, the court must first consider whether a fine would be a sufficient penalty.
>
> 3. If the contempt is so serious that only a custodial penalty will suffice, the court must impose the shortest period of imprisonment which properly reflects the seriousness of the contempt.
>
> 4. Due weight should be given to matters of mitigation, such as genuine remorse, previous positive character and similar matters.
>
> 5. Due weight should also be given to the impact of committal on persons other than the contemnor, such as children of vulnerable adults in their care.
>
> 6. There should be a reduction for an early admission of the contempt to be calculated consistently with the approach set out in the Sentencing Council's Guidelines on Reduction in Sentence for a Guilty Plea.
>
> 7. Once the appropriate term has been arrived at, consideration should be given to suspending the term of imprisonment. Usually the court will already have taken into account mitigating factors when setting the appropriate term such that there is no powerful factor making suspension appropriate, but a serious effect on others, such as children or vulnerable adults in the contemnor's care, may justify suspension."

24. I would add in the context of freezing orders that a breach of a freezing order is an attack on the administration of justice which usually merits an immediate sentence of imprisonment of a not insubstantial amount; see *Templeton Insurance Limited v Thomas & Anor* [2013] EWCA Civ 35 at [42],*Sellers v Artem Podstreshnyy* [2019] EWCA Civ 613 ("*Sellers*") at [39]. Where there is a continuing breach, it is good practice for the Court's sentence to include elements to secure the dual purposes of punishment and future compliance and to indicate what period might be remitted if there were future compliance; *Sellers* at [27], *JSC BTA Bank v Solodchenko & Ors*

[2011] EWCA Civ 1241; [2012] 1 WLR 350 ("*Solodchenko*"). Where there is a continuing breach the Court should consider imposing a long sentence, possibly even a maximum of two years, in order to encourage future corrupt cooperation by the contemnors; *Sellers* at [27], *Solodchenko*.

25. When sentencing for multiple contempts, the Court may impose either concurrent or consecutive sentences (provided that the total available sentence of two years is not exceeded), and should generally employ the "*totality principle*", namely the principle that, in general, when sentencing for more than a single contempt, the Court should pass a total sentence which reflects all of the offending behaviour and is just and proportionate.

Mr Dylan

26. Mr Dylan falls to be sentenced on Counts 1 and 2 only. Those counts relate to the transfer of virtually all the group assets to the BVI in breach of the freezing orders.

27. I start with culpability. Mr Dylan made an affidavit on 1 July 2024 accepting that he breached the orders as asserted in Counts 1 and 2 but downplaying his role and continuing to advance the false story about Rea Barreau. I made clear on 1 July 2024 that I would not regard myself as bound by what he said in that affidavit, and Mr Bridge accepts that. I do not accept that he played a limited role. This was a deliberate breach of the freezing order: there was a high degree of planning by Mr Dylan, it was his plan (as he accepts in his affidavit, and as Mr. Bridge explained in his submissions to me when the affidavit was submitted). I am satisfied that he was the main implementer of its steps. I assess culpability as high.

28. I turn to harm. This is not a technical breach. The injunction restrained dealings with the assets of the injuncted companies and persons. There was an exception, that there could be dealings in the ordinary course of business on notice to Barclays. Mr. Bridge says that even short notice would have meant that there was no breach of the injunction. That is clearly not correct. These transfers were not in the ordinary course of business for these companies or for Mr. Mason.

29. All of the Respondents have emphasised the lack of clarity of the value of the businesses which were transferred. I am not prepared to accept the self-serving valuations procured by Mr Dylan in March 2022 and September 2023, that FTG and ITG were valueless or of low value. The material and instructions given to the valuer are not available and, where they are available, they appear to have been produced by Mr Dylan. There are a number of discrepancies in those valuations which call for explanation. I consider the earlier filed accounts of FTG are a more reliable indicator of the group's value and they indicate that the group was worth a significant sum, possibly running into millions of pounds.

30. Barclays had identified these assets and companies as potentially valuable assets and the court's freezing order froze them. It is implicit in the making of those orders that the court was satisfied that the assets were potentially valuable. If they were genuinely worthless, the right course would have been to apply to discharge the injunctions, but of course, that is not what the Respondents did. I observe that the information as to the valuation of those companies was within their control, not Barclays's control. Instead, their actions indicate that they considered there to be significant value in the group

which they wished to hide from Barclays. This was a significant exercise involving the creation of an offshore structure in the BVI and Delaware to receive and hold the assets.

31. Barclays has a claim for over £13 million and the value of the group may be a fraction of that sum. Nevertheless, the likely value of the assets which have been transferred away cannot be described as small, or low or insignificant.

32. More importantly, focusing on the monetary prejudice to Barclays can distract from the real corrosive effect of this breach of this court order. Harm is not to be judged purely by the monetary effect of the breach. Freezing orders are made for good reason and are intended to prevent the dissipation or spiriting away of assets. They are essential tools to secure the fair administration of justice in this country. A deliberate flouting of a freezing order is an attack on the delivery of justice. The very purpose of the freezing orders, namely the protection of FTG and ITG's assets pending judgment, has been set at nought. This must weigh in the balance as to the appropriate sentence. I choose to place it here when considering harm.

33. I assess harm as high.

Credit for Guilty Plea

34. I turn to credit for an admission of the contempt. There should be a reduction for an early admission of the contempt to be calculated consistently with the approach set out in the Sentencing Council's Guidelines on Reduction in Sentence.

35. As the Guideline explains, an acceptance of guilt: (1) normally reduces the impact of the crime upon victims; (2) saves witnesses and victims from having to testify; and (3) is in the public interest in that it saves public time and money on investigations and trials. The earlier a guilty plea, the greater the likely benefits and so credit of up to a third may be made for an early plea diminishing to 10% on the first day of trial and reducing further, even to zero, the later the plea is entered.

36. In this case, Mr Dylan waited until the last possible opportunity – the fifth day of the trial, and shortly before he was due to enter the witness-box – to admit two of the four contempts alleged against him. I suspect Mr Peto is right when he says that Mr Dylan realised that the game was up. A day of Court time was lost as he considered his position and worked on his affidavit. Until that point, he had filed three affidavits running the false story about Rea Barreau's involvement; affidavits which were not withdrawn or corrected and were referred to during the rest of the trial. It is significant that his admission did not reduce the impact of his contempt on Barclays, did not save anyone from testifying or shorten the trial. The trial continued without him. If anything, the inability to hear his evidence tested in cross-examination made it more difficult to make factual findings. The remaining two Respondents were able to shift their ground and blame him. Mr Dylan himself was able to keep his powder dry on his evidence, which will be needed in the civil proceedings, and avoided the risk of the court making findings as to his credibility.

37. In the circumstances, I do not consider that any significant credit for a guilty plea is appropriate. I will allow 5%.

Personal Mitigation

38. I note Mr Dylan's apology and expression of sorrow in his 1 July affidavit and in the letter addressed to me in the bundle, although both remain caveated with assertions that his role was limited and any breach was inadvertent (neither of which I accept). I think it is more revealing that the assets have not been returned. I do not perceive any genuine remorse.

39. I take into account Mr. Dylan's lack of previous convictions. He is a first-time offender and the court does not send a first-time offender to prison unless it has no choice.

40. I also take into account the fact there is overcrowding in prisons and this has impacted conditions. On 24 February 2023, the Deputy Prime Minister wrote to the Lord Chief Justice and said more prisoners were being held in crowded conditions as well as being further away from home. There is no evidence that the recent releases of prisoners because of a change to early release provisions has substantially changed the position. The government has not communicated to the courts that the prison conditions have returned to a more normal state, as considered in the case of *R v Ali* [2023] EWCA Crim 232 [2023] 2 Cr App R (S) 25 *per* Edis LJ at [22].

41. I take into account that Mr Dylan's mental health is such that he may be negatively affected by a custodial sentence. Professor Nathan has written several reports on Mr Dylan which I have read. The latest says that if Mr. Dylan's self-reporting to Professor Nathan of his condition is true then there is a high likelihood of a custodial sentence having a negative impact on his mental state, which might be temporary or might be more enduring. If what has been said by Mr Dylan to Professor Nathan is not true, then Professor Nathan would have to reserve judgment about the severity and impact on his functioning. Nevertheless, Professor Nathan has proceeded on the basis that what Mr Dylan says is true and has recommended a number of measures which should be implemented for his close monitoring after any custodial sentence.

42. I also take into account the impact a custodial sentence would have on others, such as his mother, his sister and his partner who feel emotionally, and in his mother's case physically dependent on him and have written in fulsome terms in his support.

Minimum Sanction

43. Mr Dylan, please stand up now.

44. Each of Counts 1 and 2 is so serious that only a custodial sanction will suffice. Having regard to totality, the aggregate sentence which would have been appropriate if these Counts had had to be tried against you and you were found liable is two years imprisonment. Taking into account the mitigation above and a very small credit for your late admission of these Counts, I will fix a term of 22 months imprisonment.

45. I impose a sanction on Mr Dylan of 22 months imprisonment on each of Counts 1 and 2. Those sentences will run concurrently. He will be entitled to unconditional release after serving half of the sentence pursuant to section 258 of the Criminal Justice Act 2003. So, in other words, after 11 months.

46. I do not consider this a suitable case for suspension of the warrant of committal. The breaches are so serious that only immediate custody is appropriate. I have taken into account the fact that there is overcrowding in prisons and I have taken into account the support which he gives to his family. If this offence had not been so serious and had sat on the cusp of whether it should be suspended or not, then those factors may have been able to tip the balance, but this is not that case. I consider this far too serious a case for suspension to be appropriate. Professor Nathan's report should be provided to the tipstaff for the tipstaff to have regard to his advice and, if possible, to be sent with Mr Dylan to prison so that the prison is aware of its contents. His solicitors should also ensure that the prison is provided as soon as possible with a copy of that report.

47. Mr Dylan said in his July affidavit that he would "assist in any way I can in order to have the transactions reversed". I will indicate that if the full value which was spirited out of the country is returned to the jurisdiction to the satisfaction of the Court, then a remission of up to 12 months of that aggregate sentence might be appropriate. This indication does not bind a court considering remission in the future.

48. Mr Dylan, you can sit down now.

Mr Antrobus

49. Mr. Antrobus falls to be sentenced for Counts 1 to 4.

50. In respect of Counts 1 and 2, culpability and harm are high for the same reasons I have just given for Mr Dylan. I regard Mr Antrobus and Mr Mason as slightly less culpable than Mr Dylan because he was clearly the ringleader and this was his idea. But their culpability is still high. Each of Mr Antrobus and Mr Mason played a leading role as the owners and leaders of this group of companies in the plan to send it offshore. They are confident, savvy men who signed up to Mr Dylan's plan, helped to implement it and joined together to put up a united front in deflecting any attempt by Barclays to pursue the assets.

51. In relation to Count 3 I assess culpability and harm as high. This was part and parcel of the plan to transfer assets out of the jurisdiction in breach of the freezing orders.

52. In relation to Count 4, this was a breach of a Freezing Order with a slightly different purpose. The ICGL shares which were transferred were Mr Mason's shares but by the time of the transfer ICGL was an empty shell. The effect of the transfer was to block investigation of the March transfers of assets and to thereby cover their trail.

53. Mr Antrobus had a more limited role in relation to this breach in that he knew what was happening and did not stop it. I assess his culpability as low. The harm caused was the harm to the court's ability to deliver justice. Taking into account the fact that the assets had already been spirited away, I assess the harm as medium.

Personal Mitigation

54. Mr Antrobus is a first time offender with no previous convictions or previous findings of contempt of court.

55. I have been shown a copy of a report by Dr Gupta, a Consultant General Adult Psychiatrist, which refers to the fact that Mr Antrobus has anxiety and panic attacks. Importantly, that report says that a custodial sentence will have a negative impact on Mr Antrobus and I have taken that into account. He also suffers from a number of long-term medical conditions for which he needs treatment. This likely will be harder to manage when he is in prison and may in some way be exacerbated, and I keep in mind the conditions in prison are worse at the moment because of overcrowding.

56. It was submitted in mitigation that he, Mr Dylan and Mr Mason still have to contend with the civil proceedings in which they are litigants in person. This did not seem to me to be a significant point as the civil proceedings are currently in abeyance and when made live again they will be case managed to take into account any custodial sentence being served and to ensure, in accordance with the overriding objective, that there is a level playing field.

Minimum Sanction

57. Each of Counts 1, 2 and 3, at least, taken separately, are so serious that only a custodial sentence would suffice. Having regard to totality, the aggregate sentence for all four Counts which I take as my starting point is two years' imprisonment. Taking into account the mitigation above, I will fix a term of 22 months imprisonment. I have cross-checked this with the sentences which I have set for Mr Dylan. Mr. Dylan had a small discount for a late admission but he was the ring leader while Mr Antrobus had a marginally lesser role.

58. I impose a sanction on Mr Antrobus of 22 months imprisonment on each of Counts 1, 2 and Count 3 and three months for Count 4. Those sentences will run concurrently. He will be entitled to unconditional release after serving 11 months, that is half the aggregate sentence: Criminal Justice Act 2003, s 258.

59. This is not a suitable case for suspension of the warrant of committal. The breaches are so serious that only immediate custody is appropriate.

60. When Mr Antrobus is found, arrested and transferred to prison, the prison should be provided a copy of Dr Gupta's report by Mr Antrobus' solicitors.

61. I will indicate that if the full value which was transferred out of the country is returned to the jurisdiction to the satisfaction of the court, then a remission of up to 12 months of the total aggregate sentence may be appropriate. This indication does not bind a court considering a remission in the future.

Mr Mason

62. Mr Mason also falls to be sentenced for Counts 1 to 4 for. For the reasons already given in relation to Mr. Antrobus, I assess culpability and harm as high for Counts 1 to 3.

63. In relation to Count 4, these were Mr Mason's shares which were being transferred away under a backdated transfer in light of a threatened bankruptcy petition and to block investigation of the March transfers. He was clearly fully involved in the planning in

relation to it. Mr Mason said that he was given no choice but to go along with the transfer of his shares and he was placed under pressure to do this by Mr Dylan, but I rejected this evidence at the trial for the reasons given in paragraphs 104 to 110 of that judgment. I assess the culpability of Mr Mason as high, taking into account the fact that the assets had already been spirited away. I assess the harm as medium.

Personal Mitigation

64. Mr Mason is also a first-time offender. His business colleagues speak highly of his qualities as a person and a business leader, although, I do not accept their views as to his integrity and honesty.

65. I take into the account the fact that prison will be hard for Mr Mason. I have already referred to the overcrowded state of the prison estate. There is no medical evidence relied upon by Mr Mason but he says he has now tried twice to take his life.

66. Mr Counsell relies on Mr. Mason's impecuniosity saying his business reputation is ruined and he faces bankruptcy. Mr Mason says that he has now resigned from his role in the group to distance himself from his co-respondents. He says he has no control or ownership over the transferred assets. I am not willing to accept his word on these matters, particularly in light of the view I took of his honesty and credibility when giving evidence at the trial.

67. I note Mr Mason apologises but no assets have been returned and I do not detect any genuine remorse.

Minimum Sanction

68. Counts 1, 2, 3 and 4 taken together and separately are so serious that only a custodial sentence would suffice. Having regard to totality the aggregate sentence which I take as my starting point is two years' imprisonment. Taking into account the mitigation above, I will particulars a term of 22 months' imprisonment.

69. I have cross-checked this with the sentences which I have set for Mr Dylan and Mr Antrobus. Mr Dylan had a small discount for delayed admission, but he was the ring leader while Mr Antrobus and Mr Mason had a marginally lesser but equal role.

70. I impose a sanction on Mr Mason of 22 months' imprisonment on each of Counts 1, 2 and 3 and 12 months for count 4. Those sentences will run concurrently. He will be entitled to unconditional release after serving half the aggregate sentence, namely 11 months: Criminal Justice Act 2003, s 258.

71. This is not a suitable case for suspension of the warrant of committal. The breaches are so serious that only immediate custody is appropriate. When Mr Mason is found, arrested and transferred to prison, the prison should be notified of his evidence that he has attempted suicide.

72. I will indicate that if the full value which was transferred out of country is returned to the jurisdiction to the satisfaction of the court, then a remission of up to 12 months of that sentence may be appropriate. This indication does not bind a court considering remission in the future.

JUDGMENT ON COSTS

73. Costs will follow the event.

74. Barclays were put in a position where they had a choice whether to bring these proceedings or to let these Respondents get away with their breach of these injunctions. They chose to bring proceedings. The Respondents have fought them all the way, right up to a trial – in Mr Dylan's case up, to the fifth day of the trial. Barclays was justified in bringing these proceedings and they have been vindicated. In those circumstances it is right that costs should follow the event.

75. Mr McKendrick relied on Mr Antrobus' limited means, and reminded me that costs are in the discretion of the Court. The position might be different, if there was some inadvertent breach, which was immediately admitted to, and the imposition of a costs order disproportionate to the wrong done. This is not that case. This is a case in which the Respondents have dragged out these contempt proceedings for years and eventually to a trial. I should also add I am simply not satisfied with what I am being told about what their means are. I am not accepting the evidence of Mr Antrobus that his means are £20,000 in terms of income, nor am I accepting that any of these Respondents do not have access to the assets which have been spirited away.

76. I am also satisfied that this is a costs order which should be on the indemnity basis. The conduct of the respondents giving rise to this litigation, as well as their conduct during this litigation has been out of the norm by a very significant margin and that makes it appropriate for the costs to be on the indemnity basis. I will also order costs on a joint and several basis in the sense that each Respondent will be liable for all of the costs and not just a third or some other proportion. This was a joint enterprise. They have provided a united front throughout. It is simply not appropriate for there to be some sort of attempt to salami slice this into issues and say, well Mr Mason did not rely on the Rea Barreau story at trial. I accept Mr Peto's submission that they have all lied prolifically and the fact that they have provided different lies to the Court at different times does not mean that they were not still all acting together. Take Mr Mason, as an example. t is an extremely striking position that although Mr Mason maintains that he is innocent and now realises he is a victim of the other two respondents, at no point has he actually explained where the assets have now gone, who now owns them or why they cannot be returned. Nor has any of the other Respondents. They all profess to be sorry but nevertheless the assets remain hidden somewhere offshore and not returned to the jurisdiction. This was a joint enterprise, a united front. They were in it together, they will pay the costs together.

77. So far as the payment on account is concerned, there is no costs budget but costs have been ordered on an indemnity basis. I think there is some substance in the assertion that the amount of Barclays' costs is eye watering and there may, even on the indemnity basis, be a reduction of those costs on a detailed assessment. The payment on account should be at a level which I can be confident is a level which will be recovered after a detailed assessment. I will assess the payment on account on the basis of a figure of 60%.

78. Me Peto accepts that Mr Dylan's liability for costs should not include the costs of the trial incurred and attributable to the period after he had admitted Counts 1 and 2. So for the purposes of the payment on account we will take the figure of the costs as £1.25

million rather than the roughly £1.5 million sought by Barclays. Mr Dylan will pay a payment on account of 60% of £1.25 million.

79. In respect of the other Respondents, they will be liable to make a payment of account of 60% of the full costs of £1.5 million.

JUDGMENT ON DETAILED ASSESSMENT

80. I will make an order for detailed assessment of Barclays costs now, notwithstanding the extant main proceedings, on the basis that I consider these contempt proceedings to be distinct from the main proceedings. The contempt allegations are discrete issues. They should be, and have been, resolved on their own. I do not see that what happens in the main proceedings has any bearing on the assessment of the costs.

JUDGMENT ON APPLICATION TO STAY PENDING APPEAL OR SUSPENSION OR EXECUTION OF THE ORDER

81. I am going to refuse your application for a stay of the sentence pending appeal, Mr Counsell. As you say, Mr Mason is not in the country, has not attended, is not going to be taken into custody, and so the mischief which you are identifying, of his having served time in prison before his (successful) appeal is heard has not arisen. You can make an application to the Court of Appeal if you think it appropriate if he returns to the country and is arrested.

82. Can I also say that I would not have given it in any event in respect, for example, of Mr Dylan who is starting his prison sentence today, because the normal position in contempt proceedings and in criminal proceedings is that there is no stay of a sentence pending appeal. It seems to me that is the position which should prevail here. I also take the view that whether there is a stay will be coloured by the prospects of success of an appeal – no grounds have been identified to me, and the best Court to form a view on that is the Court of Appeal.

JUDGMENT ON DELAYED CUSTODY

83. [Mr Bridge applied after Mr Taylor's sanction had been imposed for the sentence to be changed to a suspended sentence to permit steps to be taken to secure the return of the assets]

84. In July, Mr Bridge, you told me Mr Dylan was going to use the time between July and a sentencing hearing in October to take the necessary steps to secure that the assets were

returned and this would obviously have been relevant to his sentence. You said this because I was keen to have this sentencing hearing considerably earlier and in circumstances in which, had I had my way, it is likely Mr Antrobus and Mr Mason would have been present.

85. The application is refused.

- - - - - - - - - -