

Press Release

RBS ORDERED TO LOOK FOR MORE DOCUMENTS IN FORGERY CASE

- ***RBS has been ordered to perform an electronic search of its Relationship Manager Platform (RMP) system – a key document repository – over concerns that documents from the crucial period may not have been searched for despite the Bank’s repeated claims to the contrary***
- ***GPP concerned that RMP documents already disclosed by the bank have been tampered with after finding strikingly similar oddities as those reported in the Broomhead litigation***
- ***GPP’s claims against RBS centre around allegations that RBS unilaterally and materially altered the term of a loan agreement without GPP’s knowledge or consent and then sought to mislead GPP and the Court as to the alteration***

LONDON, 9 December 2020 – On Friday, 4 December His Honour Judge Pelling QC ordered RBS to undertake an electronic search of its Relationship Management Platform (RMP) system, a key document repository, and provide a fresh disclosure statement for that search, in a claim brought by Grove Park Properties (GPP) against the Bank that is potentially worth over £20 million. GPP is being represented in the case by litigation boutique Cooke, Young and Keidan. The claim centres around concerns that RBS had not disclosed all relevant documents from its RMP for the key period in the dispute. This follows on from separate and unrelated proceedings against the Bank earlier this year in which Chief Master Marsh found evidence from Mark Wright of Bank Confidential regarding systemic document tampering at RBS “troubling”.

The key issue in this case is whether a £10.5 million loan agreement entered into between the parties is void and if so, what are the consequences. GPP’s case is that after the loan agreement was concluded, but before drawdown, RBS deliberately altered the term of the loan agreement without GPP’s knowledge or consent and then engaged in a cover-up of this forgery, including giving misleading evidence under oath to the Court.

Until the judgment of Chief Master Marsh in *Broomhead v NatWest and RBS* [2020] EWHC 1005 (Ch) in May of this year, GPP had no visibility of RBS's RMP system and how it functioned. Upon reading this judgment, and Mr. Broomhead's allegations of document tampering, GPP noticed that there were strikingly similar issues with RBS documents in its case.

Some of the issues identified by GPP included signs that particular RMP documents had large unexplained gaps in the text and text that did not naturally flow (with dates fluctuating illogically backwards and forwards through time).

Furthermore, GPP's position was that RBS had not disclosed key documents that ought to have been identified and disclosed as a result of an electronic search of the RMP for the critical period in this dispute.

RBS then gave inconsistent and unsatisfactory explanations about how its RMP system had been searched for disclosure purposes.

Ultimately, despite RBS's insistence that it had already performed the relevant search and that its previous disclosure statements should not be challenged, the Court ordered RBS to perform an electronic search of its RMP system for the crucial period. The Court was persuaded by the lack of clean copy versions of the documents with manuscript amendments and GPP's significant concern that only piecemeal searches of electronic document folders had been performed. There was therefore a real concern that certain relevant RMP documents may not have been identified and disclosed. RBS will also be required to certify this search exercise with a fresh disclosure statement, with this statement and any further disclosure due by Monday, 21 December 2020. Trial is listed to begin in late January 2020.

This win for GPP follows on from the December 2018 judgment of Mr Justice Males (as he then was), who dismissed RBS's application to strike out parts of GPP's Particulars of Claim which set out in detail RBS's conduct in allegedly putting forward a false and misleading case in the previous proceedings. There the Court determined that *"In the absence of any explanation [from RBS] of why a false allegation against Mr Wyatt was made, it is a reasonable...inference that this was done knowingly....and that the reason why this was done was in order to conceal reprehensible conduct [by RBS]. Whether it is right to draw that inference will be a matter for the trial judge in the light of all the evidence in the case...But in my judgment the point can be pleaded."*

CYK partner Lydia Danon acting for GPP comments:

"After over a decade long battle this is an excellent result for GPP, which signals to customers brought down by RBS that there are chinks in its armour and the little guys have a chance to show the world that the bank can be brought to heel when it has done wrong."

The team at CYK for this case is led by partner Lydia Danon, with a team including senior associate Rosie Wild and associates Irina Buydova and Andrew Flynn. Lance Ashworth QC and Philip Riches QC act as counsel.

About CYK

CYK has built a strong reputation for handling complex and high-value international litigation since it was founded, and it has achieved many high-profile landmark victories for clients. Over the years these have

included Highland v. RBS (believed to be the first case in English legal history where a British bank, RBS, lost a judgment by reason of its own fraud), Graiseley v. Barclays Bank (the first and seminal LIBOR manipulation case that went through the English Court system) and most recently CMOC v. Persons Unknown (where the English Court granted the first known freezing orders against unknown people to help a victim of a cyber-fraud operated by a global criminal operation recover its stolen money).

CYK also has substantial expertise civil fraud and asset recovery, international arbitration, partnership and corporate disputes, financial regulation and private wealth. Clients include major corporates, multinationals, financial brokers, hedge funds, VCs and asset managers including in the Fintech space, and wealthy entrepreneurs.