

Tullett Prebon plc v BGC Brokers LP and BGC Brokers GP Limited (“BGC”), Anthony Neil Verrier (“Tony Verrier”), Shaun Carl Edgar Lynn (“Shaun Lynn”), and others.

Statement by Tullett Prebon on the Judgment handed down on 18 March 2010 at the Royal Courts of Justice, London.

## **TULLETT PREBON WINS UNLAWFUL CONSPIRACY CLAIM AGAINST BGC, SHAUN LYNN AND TONY VERRIER**

- **Mr Justice Jack held that:**
  - **There was a conspiracy between BGC, Tony Verrier and Shaun Lynn to poach Tullett Prebon employees.**
  - **The injunction preventing BGC from recruiting Tullett Prebon staff must continue until BGC has absorbed the Court’s judgment exposing BGC’s unlawful conduct.**
  - **Evidence was destroyed and deleted from BGC’s computer system.**
  - **Tony Verrier’s ‘gambit’ was to ‘lose’ BlackBerrys which might contain inconvenient material and Tony Verrier’s instructions were the cause of at least some of the Defendants’ phones and BlackBerrys being lost.**
  - **The brokers’ claims that they were entitled to walk out on their contracts with Tullett Prebon were dismissed.**
  - **Tullett Prebon was and is entitled to injunctions as well as financial remedies.**
  
- **BGC lost its counter-claim against Tullett Prebon, which the Judge dismissed.**

**18 March 2010: London, New York, Hong Kong and Singapore.** As the Judge set out at paragraph 3 of his Judgment: At this trial, Tullett sought to continue by way of injunction the effect of undertakings given in April 2009 and to establish its right to damages. The Defendants in the main denied any wrongdoing and claimed that Tullett was not entitled to any further injunction or to damages. BGC also brought a counter-claim.

The Judge found in Tullett’s favour, granting further injunctions and that Tullett also had the right to claim damages. BGC’s counter-claim failed.

The Court found that it should only be necessary to extend the injunction against BGC, Mr Lynn and Mr Verrier until 2 April 2010 because the Judgment exposed BGC’s unlawful conduct. Mr Justice Jack found: “The Court must assume that the exposure of BGC’s conduct as set out in the judgment will curb unlawful recruitment in the future.”

Terry Smith commented: “In order to operate successfully businesses need to be able to rely upon a framework of law in which contracts are respected and when it is necessary to resort to proceedings, witnesses are truthful and evidence is preserved and disclosed rather than concealed or destroyed. It is clear that BGC, Mr Verrier and Mr Lynn had other designs. However, we trust that Mr Justice Jack’s Judgment and findings will be respected by them and help to take us back to the sort of legal framework which all businesses require.

## **Key Findings**

The Judge's findings included the following:

- “I did not find Mr Lynn a reliable witness. I have to ask why he wished to distance himself from Mr Verrier and the answer must be that he knew that some of Mr Verrier's conduct was unlawful.”
- “I am satisfied that it was Mr Verrier's gambit to 'lose' blackberries whenever he thought they might contain inconvenient material, and that his instructions were the cause of at least some of the mobiles being lost. I am satisfied that the inaccessibility of the contents of his last blackberry due to a missing password was a deliberate ploy.”
- “It was Mr Verrier's intention formed long before 2 January 2009 to recruit primarily from Tullett. There were two reasons. One was that it was the company which he knew and where he was known and where he had friends. Second, recruiting from Tullett was a way of getting his own back on Mr Smith.”
- “Mr Verrier intended to use desk heads to assist him in the recruitment of their desks as and when that would best achieve his aim and in so far as they were willing to do so. That included the provision of financial information.”
- “I found that in his evidence Mr Verrier stuck to the truth where he was able to, but departed from it with equanimity and adroitness where the truth was inconvenient.”
- “In an affidavit sworn on 7 April 2009 Mr Verrier had stated that Mr Hall had not provided him with any confidential information after 1 January 2009. That was not so.”
- “The conclusion to be drawn from what actually happened, from the oral evidence and from the documents is that Mr Verrier decided that, come what may, that is, whether or not the recruits and each of them had good grounds, weak grounds, or no grounds, to claim constructive dismissal, within a short period of their signing with BGC he would instruct his recruits to leave Tullett en masse.”
- “...on 15 December BGC disclosed a copy of a report headed 'Project Toscana'. The single copy had been found filed in BGC's legal department – R 6954. No other copies were located. It would have been typed by Ms Howell from Mr Verrier's manuscript. There was no copy to be found kept by her as a hard copy or saved electronically on BGC's computer system. I do not find it credible that she would have typed up the report and handed it to Mr Verrier without saving it on the computer system. I conclude that the other copies and copies of any further reports as foreseen by the e-mail were destroyed. They were also deleted from BGC's computer system.”

- Ends -

### **For further information, please contact:**

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## Notes to editors

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