Neutral Citation Number: [2024] EWHC 98 (KB) (Admin)

Case No: KB-2023-002297

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 25/01/2024

Before:

MR JUSTICE CHAMBERLAIN

- -

Between:

ILDAR UZBEKOV	**Claimant**
- and -	
REVOLUT LIMITED	**Defendant**

- -
- -

Tony Singla KC and Aarushi Sahore (instructed by **Osborne Clarke)** for the **Defendant**
Patrick Green KC and Ognjen Miletic (instructed by **Keystone Law)** for the **Claimant**

Hearing dates: 17th January 2024

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Approved Judgment

This judgment was handed down remotely at 10:00am on 25 January 2024 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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MR JUSTICE CHAMBERLAIN

Mr Justice Chamberlain:

Introduction

1 The defendant, Revolut, offers digital payment services to about 30 million customers worldwide, of which more than 6 million are in the UK. In 2020, its standard terms allowed it to suspend or close an account immediately in exceptional circumstances, including where it had good reason to suspect that the customer was behaving fraudulently or that the customer's continued of use their account could damage its reputation or goodwill.

2 The claimant, Ildar Uzbekov, opened an account with Revolut in 2018. In March and April 2020, Revolut blocked and then closed his account. In doing so, it returned about £11,000 to Kevin Knight, a car dealer to whom Mr Uzbekov had sold a Range Rover. Revolut now says that it blocked and closed Mr Uzbekov's account because, after considering media reports, it formed the view that Mr Uzbekov might be involved in money laundering, that the funds in his account might constitute criminal property and that his continued use of the account might damage its reputation and goodwill.

3 Mr Uzbekov was able to recover the money which Revolut had returned to Mr Knight. More generally, he accepts that Revolut's conduct caused him no compensable loss. Nonetheless, he says that he suffered distress and embarrassment and wishes to obtain an authoritative determination that Revolut had no good reason to suspect him of money laundering.

4 Mr Uzbekov instructed solicitors, who wrote to Revolut seeking information about the account closure in May and June 2020 and sent a letter of claim on 27 October 2020, threatening proceedings for breach of contract. Following protracted correspondence, the present claim was issued on 25 April 2023, three years after the closure of his account. In it, Mr Uzbekov alleges that Revolut breached its contract with him by closing his account and by returning his funds to Mr Knight. He claims nominal damages and declarations.

5 Revolut accepts that the breach of contract claim raises triable factual issues, but contends that a declaration would serve no useful purpose, so there is no real prospect of the court granting one; and that the proceedings amount to wasteful and disproportionate litigation. The present application by Revolut for reverse summary judgment pursuant to CPR 24.3, alternatively to strike out the Particulars of Claim pursuant to CPR 3.4(2)(a) and/or (b), was issued on 5 July 2023.

The evidence

6 Mr Uzbekov's contract with Revolut incorporated the standard terms set out on its website. In 2020, these included materially:

(a) clause 7 ("What happens after my account is closed?"), which provided:

> "We'll hold back enough money to cover any payments that you approved before your account was closed. You'll also still owe us any money that you owed us while your account was open"; and

(b) clause 24 (“When could you suspend or close my account?), which provided:

> “We may close or suspend your account immediately, and end your access to our website, in exceptional circumstances. Exceptional circumstances include the following:
>
> - if we have good reason to suspect that you are behaving fraudulently;
> - if you haven’t given us (or someone acting on our behalf) any information we need, or we have good reason to believe that information you have provided is incorrect or not true;
>
> …
>
> - if we have good reason to believe that you continuing to use your account could damage our reputation or goodwill…”.

7 Mr Uzbekov explains in his witness statement as follows:

(a) He was born in Kazakhstan but moved with his family to Cyprus and then to London. He worked in the City of London for an investment bank and then founded an energy brokerage company. He has been a British citizen since 2007. Alexander Shchukin, a Russian businessman who had stakes in various coal mines and died in 2021, was his father-in-law.

(b) Mr Uzbekov has been targeted by business rivals of his father-in-law. He and his wife, who ran an art gallery, have received death threats. There has also been what he describes as a lobbying campaign against the Shchukin family. This included the publication of hundreds of online articles about Mr Uzbekov, posted on various websites, most using the names “Kompromat”, “Rucriminal” or some variation.

(c) Mr Uzbekov has brought defamation proceedings in Russia, France, Belgium, Cyprus and Singapore in relation to these articles. It has been difficult to find out who the owners and administrators of the websites are. As some URLs are taken down, others spring up with similar names, running similar spurious stories.

(d) The lobbying campaign against Mr Uzbekov has been the subject of press reporting in the UK, including in *The Sunday Times*, *The Guardian* and *The Observer*. Mr Uzbekov points out that the reporting in British newspapers did not say that the allegations of money laundering were true, and indeed suggested that, on the contrary, they emanated from a shadowy smear campaign against him.

(e) After being informed on 3 March 2020 that his account had been blocked, Mr Uzbekov provided information about the two transactions in relation to which queries had been raised. He contacted Revolut several times in March 2020 asking for updates on what was going on, but those corresponding with him via the app simply repeated the same message that Revolut was carrying out a security review. When his account was closed on 17 April 2020 no explanation was provided. This felt unfair.

(f) He was able to speak to Mr Knight and persuade him to repay the sum that had been returned to him, but this was an embarrassing experience.

(g) Mr Uzbekov has since encountered similar issues with other financial institutions. Indeed, all his UK bank accounts have now been closed. However, he continues to use accounts with banks based outside the UK.

8 Mr Uzbekov says that the relief sought in this claim is important to him because (i) Revolut blocked his account without warning and then subjected him to weeks of silence or automated stonewall responses; (ii) he has genuine concerns that he has been the subject of a malicious and spurious campaign aimed in part at de-banking him and making his position in the UK untenable and Revolut seem to have taken these allegations and smears at face value; (iii) he has "an uncomfortable feeling" that there was some form of discrimination at play based on his ethnicity or that of his father-in-law; (iv) he has been left in the dark about how Revolut investigated his background and handled his personal data; (v) he had to instruct a legal team just to get basic answers about Revolut's decision-making process and, even now, Revolut's witness evidence leaves many gaps and omissions; (vi) Revolut's actions have caused him embarrassment in his relationship with Mr Knight; (vii) correcting the record is important to him; (viii) Revolut has applied for UK banking licences and there is a public interest in upholding the integrity and propriety of the banking industry, highlighted by recent events involving the "de-banking" of Nigel Farage; (ix) it is important for discreditable conduct to be uncovered; (x) in that connection, Mr Uzbekov notes that on 30 September 2023 *The Financial Times* reported a story about talks between Revolut and the Financial Conduct Authority about failures that allowed money to be released from accounts flagged by the NCA as suspicious.

9 Revolut's Head of Legal (Dispute Resolution), Conal McFadyen, explains in his witness statement what Revolut says were the circumstances leading to the decision to block and then close Mr Uzbekov's account. I should record that Patrick Green KC for Mr Uzbekov submits that I should approach his statement with caution bearing in mind that Mr McFadyen was not personally involved in the decision-making and has not identified the persons who were. Mr McFadyen says this:

(a) On 11 February 2020, Mr Uzbekov applied to open a business account with Revolut in the name of Coal Trading and Utilities Ltd, a company of which he was sole director and of which he held 80% of the shares. On 2 March 2020, the account was created.

(b) On the same day, 2 March 2020, an automated anti-money laundering ("AML") alert was triggered because Mr Uzbekov was a director of a business, ESBP Ltd, whose application in 2018 to open a business account with Revolut had been refused after a media check which gave rise to suspicions that Mr Uzbekov was involved in money laundering. The media reports included articles on the websites Rusletter.com and Micetimes.asia and an article dated 13 December 2015 in *The Guardian*, which said that a British private equity firm was taking legal action in Russia alleging that a £250 million coal mine had been transferred illegally to a company linked to Mr Shchukin and that Mr Shchukin's daughter and son-in-law (Mr Uzbekov) had amassed significant wealth in London.

(c) At the time when ESBP's application was refused, Revolut did not realise that Mr Uzbekov already had a personal account with them. When the flag was raised on 2 March 2020, a further check of media sources was undertaken. This disclosed articles on the websites Kompromat1.live and rucriminal.info as well as articles on the websites of *The Guardian* and *The Times*, which referenced allegations of money laundering against Mr Uzbekov.

(d) On 3 March, Revolut raised queries with Mr Uzbekov about funds credited to his account in two transactions: £10,000 from Dmitry Tsvetkov (an individual about whom Revolut had conducted a separate media check) on 3 February 2020 and £33,000 from Kevin Knight on 14 February 2020. Mr Uzbekov responded on the same day saying that the money from Mr Tsvetkov was a birthday present and the money from Mr Knight was payment for a car. Mr Uzbekov subsequently provided a receipt from HMRC refunding vehicle tax on the car, showing – he said – that he had indeed sold it.

(e) Revolut carried out a further media check on 19 March 2020, which uncovered further reporting, including an article published in *The Guardian* on 20 October 2019 entitled 'Oligarchs at war in London over mystery of missing Siberian', which reported allegations that: (i) Mr Shchukin was implicated in the disappearance of the manager of a Siberian coal mine who had agreed to testify against Mr Shchukin in connection with extortion charges; (ii) Mr Shchukin was under house arrest in connection with those charges; (iii) there was a "flow of money" from Mr Shchukin to Mr Uzbekov in London: specifically from a mine controlled by Mr Shchukin to a Cyprus trust, of which the beneficiaries were Mr Uzbekov and his wife, who had amassed significant wealth; (iv) Sir Henry Bellingham, a Conservative MP, had urged the NCA "to track or chase any illicit funds connected to this criminal case" and this was supported by Lord Razzall, the Liberal Democrat peer; (v) Mr Uzbekov strenuously denied wrongdoing and claimed to be the victim of a smear campaign orchestrated by parties seeking to take control of Mr Shchukin's mine.

(f) Having considered this media coverage, Revolut's Financial Investigation Unit formed the suspicion that Mr Uzbekov may be engaged in money laundering and that, consequently, the monies held on the account may constitute criminal property. Revolut was not in a position to determine the truth of the allegations, but considered that it had good reason to suspect that they may be true. It was also mindful that Mr Uzbekov's continued use of his account could damage its reputation and goodwill.

(g) On 5 April 2020, Revolut filed a Suspicious Activity Report ("SAR") pursuant to the Proceeds of Crime Act 2000 ("POCA") with the National Crime Agency ("NCA") and sought a Defence against Money Laundering ("DAML") to permit it to return about £11,000 to Mr Knight. Having received no response within 7 working days, Revolut was entitled to return the funds to Mr Knight and did so.

(h) On 17 April 2020, Revolut informed Mr Uzbekov that his account had been permanently deactivated.

The claim

10 In the Particulars of Claim, Mr Uzbekov pleads that Revolut breached the terms of its agreement with him by closing his account in circumstances where the grounds for doing so under clause 24 had not arisen and by returning funds to payers without authority when there was no right to do so under clause 7 or any other provision of the agreement.

11 Under the heading "Relief sought", Mr Uzbekov accepts that he suffered no financial loss, but pleads that he suffered "embarrassment", "distress and inconvenience", "difficulties in making and receiving payments" and that he "may have to declare in future that Revolut closed his account and/or terminated the banking relationship".

12 Mr Uzbekov says that declaratory relief would serve the following purposes:

> "36.1 The Claimant would wish to explain the circumstances in which his Revolut account was closed with the benefit of an objective and authoritative decision of the Court.
>
> 36.2 A declaration that confirms Revolut did not, in fact, have good reason to believe any wrongdoing or impropriety on his part such as to contractually allow it to terminate the Agreement without notice would obviously be of significant benefit to him, particularly given the realistic prospect of adverse and/or malicious information being provided to newspapers and/or other media about him.
>
> 36.3 Suitable declarations would vindicate his contractual rights, and serve to reinforce the need for financial institutions (including new technological start-ups, such as the Defendant): (i) to make their contractual terms clear to customers, and fit for purpose; (ii) to comply with those terms when dealing with customers; and (iii) to act with due care and caution when making decisions regarding the accounts of their customers, which are important to the day-to-day lives of their customers."

13 Mr Uzbekov claims nominal damages and declaratory relief in the following terms "or such terms as the Court may think fit":

> "37.1 **Termination without notice:** …a declaration that:
>
> (a) Revolut breached its contract with the Claimant by attempting to terminate it without notice;
>
> (b) Revolut did not have a good reason:
>
> i. to suspect that he behaved fraudulently;
>
> ii. to believe that information he provided was incorrect or not true; or
>
> iii. to believe that his continued use [of] his account could damage Revolut's reputation or goodwill.

> (c) **Reversal of funds:** …that Revolut acted unlawfully and in breach of contract by effecting transactions (in the form of reversing funds to their original source) without the Claimant's mandate and without a contractual basis for doing so."

The law

Declaratory relief

14 Under CPR 40.20, a declaration may now be sought whether or not another remedy is also claimed. That does not mean, however, that it is available as of right. The court may decline to grant it.

15 In *Financial Services Authority v Rourke* [2002] CP Rep 14, Neuberger J said this:

> "…so far as the CPR are concerned, the power to make declarations appears to be unfettered. As between the parties in the section, it seems to me that the court can grant a declaration as to their rights, or as to the existence of facts, or as to a principle of law, where those rights, facts, or principles have been established to the court's satisfaction. The court should not, however, grant any declarations merely because the rights, facts or principles have been established and one party asks for a declaration. The court has to consider whether, in all the circumstances, it is appropriate to make such an order.
>
> …
>
> It seems to me that, when considering whether to grant a declaration or not, the court should take into account justice to the claimant, justice to the defendant, whether the declaration would serve a useful purpose and whether there are any other special reasons why or why not the court should grant the declaration."

16 In *Rourke,* Neuberger J granted declarations that the defendant, a bookmaker, had taken unauthorised deposits and made deliberately false statements for the purpose of inducing persons to make those deposits. He did so essentially for public interest reasons: the publication of the declarations would help depositors understand the defendant's breaches of the law and warn others who may not have appreciated the risks of placing deposits with unauthorised persons.

17 In *Rolls Royce plc v Unite The Union* [2009] EWCA Civ 387, [2010] 1 WLR 318, an employer sought a declaration that the use of a length of service criterion in the selection matrix for redundancy was contrary to the domestic regulations implementing an EU directive. The Court of Appeal had to consider, inter alia, whether declaratory relief was appropriate. It answered that question in the affirmative. Wall LJ gave his reasons at [54]-[60]. The court was being asked to construe a statutory instrument and "the construction and interpretation of material emanating from Parliament is both a matter of public

importance, and one of the court's proper functions": [54]. Although there was no *lis* between the parties, the dispute was not academic in the sense that if not resolved it would lead to a dispute between the parties: [55]. The issue was of some importance and was likely to affect a large number of people both employed by the employer and beyond: [56]. And both parties were asking the court to determine the point: [57].

18 Aikens LJ considered the cases on the exercise of the court's jurisdiction to grant declaratory relief and summarised the principles as follows, at [120]:

> "(1) The power of the court to grant declaratory relief is discretionary.
>
> (2) There must, in general, be a real and present dispute between the parties before the court as to the existence or extent of a legal right between them. However, the claimant does not need to have a present cause of action against the defendant.
>
> (3) Each party must, in general, be affected by the court's determination of the issues concerning the legal right in question.
>
> (4) The fact that the claimant is not a party to the relevant contract in respect of which a declaration is sought is not fatal to an application for a declaration, provided that it is directly affected by the issue;…
>
> (5) The court will be prepared to give declaratory relief in respect of a 'friendly action' or where there is an 'academic question' if all parties so wish, even on 'private law' issues. This may particularly be so if it is a 'test case', or it may affect a significant number of other cases, and it is in the public interest to decide the issue concerned.
>
> (6) However, the court must be satisfied that all sides of the argument will be fully and properly put. It must therefore ensure that all those affected are either before it or will have their arguments put before the court.
>
> (7) In all cases, assuming that the other tests are satisfied, the court must ask: is this the most effective way of resolving the issues raised? In answering that question it must consider the other options of resolving this issue."

19 Arden LJ agreed with Wall LJ's reasons for concluding that the court should entertain the appeal: [151]. She read his reference to the absence of a *"lis"* to there being no immediate claim by an alleged victim of age discrimination. But, she added, "there is a 'lis' the sense of a dispute between the respondent union and the appellant employer" as to the point of law in question.

20 In *Financial Services Authority v Watkins* [2011] EWHC 1976 (Ch), Proudman J granted declaratory relief at the instance of the FSA that the defendant's business was an unauthorised collective investment scheme, applying the principles set out in Neuberger

J's judgment in *Rourke*. At [24], she noted that the FSA acted as a protector of the public interest. At [25], she said that the question was whether the relief would serve a useful purpose. She identified five such purposes: making the general public more aware of the risk of handing over money to unauthorised persons for the purchase of land in the context of investment schemes (see [26]); making clear to investors that the defendant, and thus the present scheme, was unauthorised and that they therefore had statutory rights to the return of their money (see [27]); assisting domestic regulators in determining whether or not a particular individual was a fit and proper person to be carrying on regulated activities (see [28]); assisting the FSA in its function of informing foreign regulators about the defendant (see [29]); and assisting the FSA in potential future claims against third parties who may have been involved in the scheme (see [30]).

21 *Zamir & Woolf on Declaratory Judgments* (4th ed., 2011) says this at §4-99:

> "If it can be shown that a declaration would not serve any practical purpose, this will weigh heavily in the scales against the grant of declaratory relief. If, on the other hand… the grant of declaratory relief will be likely to achieve a useful objective, the court will be favourably disposed to granting relief. The question of whether or not any useful purpose would be served by granting declaratory relief is therefore of prime importance in determining how discretion should be exercised… A declaration which would serve no useful purpose whatsoever can be readily treated as academic or theoretical and dismissed on that basis. However, while a declaration which resolves an issue of law cannot be described as being of no practical utility, the point may still be academic or theoretical because there is no existing factual claim which it will resolve."

Summary judgment

22 The principles governing applications for summary judgment under CPR 24.3 have been stated on many occasions and are well known. One well-known source is *Easyair Ltd v Opal Telecom* [2009] EWHC 339 (Ch), [15] (Lewison J). This was approved by the Court of Appeal in *AC Ward & Sons Ltd v Catlin (Five) Ltd* [2009] EWCA Civ 1098, [2010] Lloyd's Rep IR 301, [24]. A more recent compilation of the relevant principles can be found in *Lawrence v Associated Newspapers Ltd* [2023] EWHC 2789 (KB), [77] (Nicklin J).

Abuse of process

23 CPR 3.4(2) empowers the court to strike out a statement of case if (a) the statement of case discloses no reasonable grounds for bringing or defending the claim or (b) the statement of case is an abuse of the court's process or is otherwise likely to obstruct the just disposal of the proceedings.

24 In considering whether the statement of case is an abuse of the court's process, the court can and must bear in mind the overriding objective of the procedural code contained in the CPR, as set out in CPR 1.1(1): "enabling the court to deal with cases justly and at proportionate cost". By CPR 1.1(2), this includes, so far as is practicable: (b) saving expense; (c) dealing with the case in ways which are proportionate to (i) the amount of

money involved and (ii) the importance of the case; and (e) allotting to the case an appropriate share of the court's resources, while taking into account the need to allot resources to other cases.

25 In *Jameel v Dow Jones & Co Inc.* [2005] EWCA Civ, [2005] QB 946, a foreign claimant issued defamation proceedings against the publisher of a US newspaper in respect of an article on a website which was available to subscribers in England, which the claimant said implied that he had provided funding to Osama bin Laden. It was common ground that there had been only minimal publication within this jurisdiction. Lord Phillips MR, giving the judgment of the court, followed previous authority that the court could stop as an abuse of process defamation proceedings which would not yield any tangible or legitimate advantage in terms of vindication of reputation such as to outweigh the disadvantages in terms of expense for the parties and the drain on court resources: see [57]-[60]. Because the defendant had not pleaded a truth defence, the judge could not be expected to declare with confidence that the claimant had never provided funding to Osama bin Laden: [67]. All that would be determined was whether the publications were protected by qualified privilege: [68]. At [69], Lord Phillips said this:

> "If the claimant succeeds in this action and is awarded a small amount of damages, it can perhaps be said that he will have achieved vindication for the damage done to his reputation in this country, but both the damage and the vindication will be minimal. The cost of the exercise will have been out of all proportion to what has been achieved. The game will not merely not have been worth the candle, it will not have been worth the wick."

In addition, because there was no likelihood that Dow Jones would repeat their article in the form in which it was originally published, the claimant would derive no significant advantage from an injunction and the court would be unlikely to grant one: see [75]-[76]. Accordingly, the claim was stayed for abuse of process: [77].

26 The *Jameel* approach to abuse of process has been applied in relation to a claim for breach of confidence and misuse of private information (see *Abbey v Gilligan* [2012] EWHC 3217 (QB), [181]) and was relied upon in striking out a claim for breach of confidence seeking only declaratory relief (see *Choudhrie v Choudhrie* [2019] EWHC 2066 (Ch), [82]-[87] (HHJ Hodge QC)).

27 In *McLaughlin v Lambeth London Borough Council* [2010] EWHC 2726 (QB), [2011] EMLR 8, a local authority and its internal auditor applied to strike out a defamation claim brought by the head teacher, former head teacher and governors of a primary school in respect of an email sent by the auditor. Tugendhat J refused the application. At [112], he said this:

> "The damage so far suffered by the claimants may be small. I express no view on that, but simply assume that the Mr Caldecott may be right so to submit. But the main point of defamation proceedings is vindication. Vindication includes preventing, or reducing the risk of, future publications of the words complained of. The fact that the damage suffered so far may be small (if it is), is no indication of the extent of the damage which is

> prevented from occurring in the future, when a claimant in a libel action obtains a public retraction or a judgment in his favour from the court."

Submissions

Submissions for Revolut

28 Tony Singla KC for Revolut submitted that, in determining the likelihood of Mr Uzbekov succeeding in obtaining a declaration, the key question was whether the declaration would serve any useful purpose. This was to be determined objectively and could only be answered in the negative. The declaration sought concerned an alleged breach of contract that was historic. There was no ongoing relationship between the parties and no prospect of any future relationship. The declaration would only address the question whether, on the facts, Revolut had complied with its standard terms when it closed Mr Uzbekov's account on the basis of the material then available to it. It would not determine the truth or falsity of the underlying allegations of money laundering. No example is given of a third party in relation to whom the declaration sought would be relevant. Third parties would not necessarily have the same or similar contracts. Even if they did, a declaration in proceedings between Mr Uzbekov and Revolut would not be binding on them.

29 Insofar as Mr Uzbekov brings these proceedings to vindicate this reputation, the claim is misconceived. Revolut never publicised the fact that it had closed his account because of suspicions of money laundering. There was no publication to Mr Knight. In any event, Mr Uzbekov got his money back from Mr Knight and, on his own evidence, is back in business with him. The declaration sought is likely to have no material impact on his reputation. It would say nothing about whether the four other UK banks which have closed his accounts with them were entitled to do so and, as noted, nothing about the underlying allegations, which are the subject of hundreds of press articles and, on Mr Uzbekov's own case, a lobbying campaign. The fact that it took some three years after the closure of his account to bring proceedings is also relevant. The limitation period for defamation proceedings is one year and Mr Uzbekov should not be permitted to circumvent that by dressing up a reputational claim as a claim for breach of contract.

30 The suggestion that there is a broader public interest in the matters that are the subject of this claim is a red herring. Following high profile allegations made by Nigel Farage about the closure of his account with Coutts, there was an investigation by the Financial Conduct Authority, which reported last year: see *UK Payment Accounts; access and closures* (September 2023). The regulator is the proper body to examine systemic issues of this kind. The present case is very different from cases like *Rourke* and *Watkins*, where the regulator was seeking to establish facts for the benefit of the public at large. The suggestion that the closure of the account may have been discriminatory is baseless. In any event, it is not pleaded. References to Revolut's broader compliance (and its application for UK banking licences) are misplaced. The declarations sought here will be of little significance in the context of a company with over 6 million customers in the UK. Distress and embarrassment are not a proper basis on which to seek relief in breach of contract proceedings where no loss has been suffered.

31 In considering whether the litigation is an abuse of process, the absence of any likelihood that the declaration will be granted is the starting point. The cost to both parties will be

significant. Mr Uzbekov has served a costs schedule for the present hearing (which takes place prior to Revolut even serving a defence) claiming costs of more than £147,000. In addition, it is already evident that Mr Uzbekov will seek to use the proceedings to introduce and ventilate irrelevant issues, such as his claim that he has been subject to a smear campaign and matters relating to his wife's account with Revolut. His wide-ranging request for further information shows that he is likely to litigate in a disproportionate manner.

Submissions for Mr Uzbekov

32 Patrick Green KC for Mr Uzbekov responds that the grant of declaratory relief depends on a much wider range of factors than simply whether the declaration would serve a useful purpose. The exercise of the court's jurisdiction depends on a multi-factorial assessment, which is better conducted after trial. Revolut accepts that the claim for breach of contract is triable. The court may well conclude at trial that the closure of Mr Uzbekov's account involved not only a breach of contract, but an egregious one. As cases such as *Rourke* and *Watkins* show, the nature and seriousness of the breach is highly relevant to the question whether declaratory relief should be granted. At this stage, the evidence shows that the decision to close his account was taken on the basis of the flimsiest of evidence, much of it from obviously unreliable websites. Insofar as reliance was placed on reporting from *The Guardian* and *The Sunday Times*, these sources tended to support Mr Uzbekov's allegation that he had been subject to a smear campaign. There is nothing to show that Revolut gave any proper consideration to this aspect of the evidence.

33 In any event, a declaration would serve a useful purpose. The closure of his account caused him considerable embarrassment in the context of his personal relationship with Mr Knight. More generally, he has suffered distress and inconvenience in dealing with Revolut, which stonewalled him for many weeks. He may have to declare in future that his account with Revolut was closed because of suspicions of money laundering. Therefore, he has a legitimate interest in obtaining a declaration that the closure was wrongful. A declaration authoritatively determining the circumstances in which the account was closed is important given the coordinated targeting to which he has been subject and the media interest in his position more generally. It should be obvious that someone in respect of whom spurious, mistaken and unfounded views have been formed would obtain important vindication in exposing that such views were unfounded.

34 As to the wider public interest, the vindication of Mr Uzbekov's contractual rights would also reinforce the need: (i) for financial institutions to make their contractual terms clear to customers and fit for purpose; (ii) to comply with those terms when dealing with customers; and (iii) to act with due care and caution when making decisions regarding accounts of their customers, which are important in their day-to-day lives. This case is like *Rourke* in that the declarations sought may assist other members of the public that have had similar experiences with Revolut or are considering whether to open an account there, given the power imbalance between financial institutions and their customers.

35 As to the application to strike out the Particulars of Claim for abuse of process, *Jameel* was a libel case in which there was limited publication in the jurisdiction. While this category of abuse is not limited to libel claims, such cases dominate in the analysis. The court should proceed with caution in applying the principles to cases outside the defamation context. Mr Uzbekov has not pursued defamation proceedings in this

jurisdiction because of the difficulty of identifying a defendant responsible for the postings which make up the smear campaign against him. In those circumstances, he is entitled to seek vindication by bringing a claim for breach of contract. Revolut's reliance on delay is misguided. In the period between the closure of his account and the issue of these proceedings, he was exploring the same issue with other financial institutions. The fact that four other banks have closed their accounts demonstrates how important it is to obtain a ruling that the limited material available to Revolut was not enough to trigger their right to close his account.

Discussion

Does the claimant have a right to have his claim determined?

36 In principle, "[d]amages for a breach of contract committed by the defendant are a compensation to the plaintiff for the damage, loss or injury he has suffered through that breach": *Surrey County Council v Bredero Homes Ltd* [1993] 1 WLR 1361 (Dillon LJ), approving a statement from *Chitty on Contracts* (26th ed., 1989), vol. 1, §1771. The size of the loss may be relevant to the forum in which the claim is determined, the extent to which he can insist on disclosure from the defendant and the costs recoverable if the claim succeeds, but the fact that the loss is small is not a basis for refusing to determine the claim at all: *Sullivan v Bristol Film Studios Ltd* [2012] EWCA Civ 570, [29] (Lewison LJ, with whom Etherton and Ward LJJ agreed).

37 There are some circumstances in which courts have been willing to entertain claims for purely nominal damages as a means of "establishing, determining or protecting a legal right", generally a property right (see *McGregor*, §12-011), or for vindicatory purposes. A celebrated example of the latter is *Constantine v Imperial Hotels* [1944] 1 KB 693, where a well-known West Indies cricketer obtained what Birkett J described as "nominal damages" when the defendant refused him lodging at one of its hotels on racial grounds, in breach of its common law duty as innkeeper. A very recent example is *Clark v Adams* [2024] EWHC 62 (KB), a claim in battery seeking nominal damages for vindicatory purposes in respect of injuries sustained in bombings said to have been carried out by the Provisional IRA (though on the claimant's case loss had in fact been suffered and there was no suggestion that the claim amounted to an abuse of process: see [59]).

38 But at least since the introduction of the CPR, with its overriding objective of "enabling the court to deal with cases justly and at proportionate cost", it is no longer correct to say that a claimant alleging a wrong where damage is not part of the gist of the cause of action (a wrong actionable *per se*) is entitled to have his claim adjudicated as of right *(ex debito justitiae)*. The reason was pithily explained by Lord Phillips MR in *Jameel* at [54]:

> "An abuse of process is of concern not merely to the parties but to the court. It is no longer the role of the court simply to provide a level playing field and to referee whatever game the parties choose to play upon it. The court is concerned to ensure that judicial and court resources are appropriately and proportionately used in accordance with the requirements of justice."

39 This is of particular importance, because, as CPR 1.2(e) expressly recognises, using the court's resources to determine one claim has an impact on other parties who may have

disputes that are equally or more deserving of court time. This consideration was central to the species of abuse of process identified in *Jameel.* That was a libel case, but, as Mr Green rightly accepted, the need to protect parties from disproportionately costly and time-consuming litigation and to allot to them a fair share of court's limited resources applies more generally than that. *Abbey v Gilligan* and *Choudhrie v Choudhrie* are examples of the application of the *Jameel* principles to other causes of action.

40 This means that, in a breach of contract case where the claim is limited to nominal damages, just as in a libel case where (before the enactment of the Defamation Act 2013) the tort was actionable *per se*, the court is entitled to ask Lord Phillips' question: "Is the game worth the candle?" If not, it is entitled to protect the defendant from having to incur disproportionate costs, the court from having to deploy disproportionate judicial resources and other litigants and potential litigants who might be disadvantaged, by striking the claim out as an abuse of process.

41 Everything I have said so far would apply even if relief sought in the claim were limited to nominal damages. In fact, the principal relief sought here are declarations.. However, an analysis of the cases about the grant of declaratory relief shows that many of the same considerations apply when deciding whether, in the exercise of the court's discretion, to grant that relief.

<u>The test for the grant of a declaration</u>

42 I accept Mr Green's submission that, on a literal reading of Neuberger J's judgment in *Rourke*, the question whether a declaration would serve a useful purpose is only one of the considerations bearing on the grant of relief, alongside justice to the claimant, justice to the defendant and whether there are any other special reasons why or why not the court should grant the declaration. But it is important not to elevate the observations of a judge, even one as distinguished as Neuberger J, into something akin to a statutory list of factors. As a matter of principle, it seems unlikely that justice to the claimant would favour the grant of a declaration that would serve no useful purpose (even to the claimant). Equally, it is difficult to see how there could be a "special reason" for granting a declaration that would serve no useful purpose (even to the claimant). I would accordingly endorse as a correct statement of the law Zamir & Woolf's proposition that "[t]he question of whether or not any useful purpose would be served by granting declaratory relief is therefore of prime importance in determining how discretion should be exercised".

43 The cases show that there are many types of useful purpose which can be served by a declaration. These might in an appropriate case include warning third parties (as in *Rourke* and *Watkins*). However, in my judgment, Mr Singla was correct to submit that the question whether the declaration sought would serve a useful purpose must be judged objectively. As Neuberger J put it in *Rourke,* "[t]he court should not… grant any declarations merely because the rights, facts or principles have been established and one party asks for a declaration". It is not, therefore, enough that the claimant considers that a declaration would serve a useful purpose. That is a question for the court.

44 I accept that, particularly where a declaration is sought as to matters of fact, the precise form of the declaration will depend on the facts found. The Particulars of Claim recognise this, by seeking a declaration in the form set out in para. 37.1 "or such terms as the Court may think fit". There is nothing wrong with this standard formulation, but it does not entitle a respondent to a summary judgment application to invite the court to dismiss the

application on the speculative basis that the court may end up finding misconduct more serious than that pleaded. Pleadings are important. They focus the minds of the parties and their representatives on what averments can properly be made on the evidence available. The question whether a declaration will serve any practical purpose can and must be answered by reference to the declaration pleaded, and not some other declaration the court might grant if evidence not now available were to turn up.

Five key features of the present claim

45 The present claim has five important features, which are relevant both to the question whether there is a real prospect of a declaration being granted and to the question whether the claim for nominal damages and declaratory relief constitutes an abuse of process, given what it might plausibly achieve.

46 First, the central contention upon which the claim is based is that Revolut breached its contract with the claimant when it blocked and then closed his account and returned the £11,000 to Mr Knight. But since the relationship between Mr Uzbekov and Revolut has now ended, and there is no foreseeable prospect of any resumption of it, the claim may be regarded as entirely backward-looking. Neither nominal damages nor the declaration Mr Uzbekov seeks would have any effect on his legal position vis-à-vis Revolut going forward. This is, therefore, not a case like *Rolls Royce plc v Unite The Union,* where there was a live dispute in the context of an ongoing relationship. Nor, on the facts, does the effect of Revolut's actions on Mr Uzbekov's relationship with Mr Knight supply any good reason for the court to adjudicate: Mr Knight agreed to return the funds to Mr Uzbekov and the two are, on Mr Uzbekov's own evidence, back in business together.

47 Second, for the purpose of this application, it may be readily accepted that the allegations that Mr Uzbekov has been involved in money laundering have caused damage to his reputation and that, accordingly, he has a legitimate interest in a determination of the falsity of those allegations. But neither an award of nominal damages, nor the declaration sought, would establish the falsity of the underlying allegations. The most Mr Uzbekov could hope to establish is that the media material available to Revolut in 2020 was plainly insufficient to trigger its right to block and close his account and/or that it had no right to return the £11,000 to Mr Knight. As a matter of logic, that would say nothing about whether the allegations contained in the media material were true. Just as the determination of the qualified privilege defence in *Jameel* would not vindicate the claimant's reputation there, so the determination of the breach of contract allegations would not in any substantial sense vindicate Mr Uzbekov's reputation here.

48 Third, it may be that nominal damages or a declaration in the form sought would provide some subjective satisfaction to Mr Uzbekov, given the distress and inconvenience he suffered when his account was closed. But the suggestion that either form of relief would serve an objectively useful purpose in his future relations with third parties is not made out. As Mr Singla submitted, a judgment against Revolut (whether coupled with a declaration or not) would not bind any third party. Even insofar as it had some precedential value, it would be unlikely to determine whether another UK bank, applying its own terms and conditions (which are not in evidence and may well differ from those of Revolut) had acted wrongfully in terminating his account with that bank on the basis of whatever information was available to it at the relevant time (which may differ from that available to Revolut in 2020).

49 Fourth, there are other ways in which Mr Uzbekov can seek, or could have sought, to vindicate his reputation. The most obvious is by bringing proceedings for defamation against the publishers of any defamatory statements. Defamation proceedings would in principle offer a route to an authoritative determination of the falsity of the allegations. It is noteworthy that, on his own evidence, Mr Uzbekov has in fact brought such proceedings in other jurisdictions (where, presumably, he has been able to identify the publishers of defamatory statements). Mr Singla said that there were also proceedings for defamation in this jurisdiction. The existence of these proceedings is illustrative of the general point that the law provides a bespoke cause of action for those seeking to vindicate their reputations. In this jurisdiction, it has certain safeguards for defendants, which include a requirement to show the publication has caused serious harm to reputation (s. 1 of the Defamation Act 2013) and a one-year limitation period (s. 4A of the Limitation Act 1980). The court should be cautious about entertaining proceedings seeking nominal damages or declaratory relief for vindicatory purposes which would circumvent these safeguards.

50 Fifth, insofar as Mr Uzbekov suggests that it would be in the public interest to grant the relief sought, there are other more appropriate mechanisms for protecting the public from the improper closure of accounts by financial institutions. Revolut, like other such institutions, is regulated by the Financial Conduct Authority. The regulator is well placed to consider systemic issues. It has done so: see its September 2023 report, which also indicates that it is undertaking further work on this subject. It is difficult to see how an investigation into an alleged breach of contract in one particular case would add to that work. It is of some significance that both the declaration cases relied upon by Mr Green (*Rourke* and *Watkins*) were brought by the regulator. This claim, by contrast, is brought by a private party. Moreover, there was another mechanism by which Mr Uzbekov could have ventilated his complaint about the decision to block and close his account, and to return his funds to Mr Knight: a complaint to the Financial Ombudsman Service. This was raised as a possibility by Mr Uzbekov's solicitors in correspondence as early as June 2020, so there is no merit in Mr Green's complaint that Revolut did not rely on this alternative until a late stage in these proceedings. The facts that no such complaint was made, and that Mr Uzbekov waited more than three years before bringing this claim, both diminish the public interest justification for the deployment of substantial judicial resources on a detailed exploration of the alleged breach of contract in this case.

Should the court "grasp the nettle" now?

51 I accept Mr Green's submission that the nature and seriousness of the alleged breach of contract will become fully clear only after trial. But this is a submission which will almost always be open to a claimant resisting an application for summary judgment and/or strike-out. The extent to which the court should "grasp the nettle" (as Lewison J put it in *Easyair,* at [15(vii)]) will depend on the facts. In some cases, the appropriateness of the relief sought may not be obvious at the interlocutory stage. In others (such as *Choudhrie*), the court will be in a position to reach a view about the utility of the relief sought, and therefore the proportionality of the litigation, long before trial.

52 In this case, I conclude that the range of findings the court might plausibly make and the relief the court might plausibly grant are sufficiently clear from the pleadings and the evidence available at this interlocutory stage. The suggestion, made in Mr Uzbekov's evidence, that the decision to suspend or close his account was taken on the basis of his

ethnicity takes matters no further. The evidence provides no support for this suggestion, which perhaps explains why it is not pleaded. On the contrary, the evidence indicates that the decision was taken on the basis of a review of media reports about Mr Uzbekov. Realistically, the focus of any trial would be on whether Revolut's decision-making on the basis of that review was in breach of its contract with him. Even if the court concluded that the breach was a plain or egregious one, such a finding would be of very limited practical utility, for the reasons I have canvassed at paras 46-50 above.

Conclusion

53 For all these reasons, there is, in my judgment, no real prospect that the court would grant declaratory relief in the terms sought by Mr Uzbekov, or similar terms. The same considerations are also material to the question whether the claim for nominal damages and for a declaration should be struck out as an abuse of process under the *Jameel* jurisdiction. In answering that question, it seems to me relevant that Mr Uzbekov has served a schedule of costs claiming more than £147,000 at this very early stage of the proceedings, before a defence has been served and disclosure has been given, let alone a trial (lasting several days) held. Even if nominal damages and a declaration in the form sought were ultimately granted, the cost to the defendant (in money and time spent by its staff) and the impact on the court's resources (and indirectly on other litigants and potential litigants) would be disproportionate to the marginal objective benefit the relief would confer on Mr Uzbekov. The game is not worth the candle.

54 In my judgment, the most appropriate way to give effect to these conclusions is to grant Revolut's application to strike out the Particulars of Claim as an abuse of the process of the court, pursuant to CPR 3.4(2)(b). I shall invite representations as to the precise form of the order.