Neutral Citation Number [2023] Ewhc 2273 (Ch)

Case No: Bl-2020-001098

In The High Court Of Justice
Business And Property Courts
Insolvency And Companies List

7 Rolls Buildings
Fetter Lane
London
Ec4a 1nl

Thursday, 20 July 2023

Before:
Mr Justice Rajah

Between:

Ms Louise Mary Brittain &
Mr Jake Beake

Applicants

- And -

Mr Usman Khalid Raja

Respondent

MR C BROCKMAN (instructed by Wedlake Bell LLP) appeared on behalf of the Applicants
MR J FLETCHER (instructed by Birds Solicitors) appeared on behalf of the Respondent

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JUDGMENT
(Approved)

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(Official Shorthand Writers to the Court)

1. MR JUSTICE RAJAH:

Introduction

This is the application of the claimant, Umbrella Care Limited ("UCL"), to commit the defendant, Usman Khalid Raja, in relation to various alleged contempts committed by him in proceedings brought against him in his capacity as a *de facto* director of UCL.

2. In summary, the contempts alleged by UCL are as follows.

Contempt 1

2.1 That the defendant knowingly made a false statement in a witness statement, verified by a statement of truth dated 5 September 2022 (''the Fourth WS') that his wife's mother had died, which was untrue. He relied upon this witness statement at a hearing before Meade J on 6 September 2023.

2.2 At the same hearing on 6 September, in addressing the court while representing himself as a litigant in person, he told the court that he or his wife had spoken to Ghulam Abbas, his brother-in-law, and that Mr Abbas had denied sending an email to Wedlake Bell, solicitors to UCL, which confirmed that the defendant's mother-in-law was alive. The defendant also said that he had a message to that effect which he could send to the court. Both, it is said, were untrue.

2.3 Further, at a further hearing before Edwin Johnson J, which took place on 2 and 3 November 2022, the defendant also relied upon the Fourth WS, dated 5 September 2022, and when being cross-examined on his evidence to the court, repeated that his mother-in-law was dead and that he had communicated with Mr Abbas, who denied sending the email. Both are said to be untrue.

2.4 I treat all of those as effectively one allegation of contempt, of making a false statement in a witness statement, making false statements to the court and making false statements in sworn evidence, although there are different particulars of those false statements.

Contempts 2 and 3

2.5 The second contempt is said to be that the defendant failed to comply with the disclosure requirements contained in two freezing orders in relation to the Isle of Man, and the third contempt is that he further failed to disclose assets located in Pakistan.

Relevant law

Knowingly making a false statement in a document verified by a statement of truth

3. It is provided in CPR Rule 32.14 that proceedings for contempt of court may be brought against a person if he makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth. Proceedings may be brought under the rule only by the Attorney General or with the permission of the court. In this case, Richard Smith J gave permission on 15 June 2023.

4. In *AXA Insurance UK plc v Rossiter* [2013] EWHC 3805 (QB) Stewart J set out the test as follows at paragraph 9:

> ''It is common ground that for the Claimants to establish each contempt alleged they must prove beyond reasonable doubt in respect of each statement:
>
> (a) The falsity of the statement in question
>
> (b) That the statement has, or if persisted in would be likely to have, interfered with the course of justice in some material respects;
>
> (c) That at the time it was made, the maker of the statement had no honest belief in the truth of the statement and knew of its likelihood to interfere with the course of justice.''

5. In *Newson-Smith v Al Zawawi* [2017] EWHC 1876 (QB), Whipple J expanded on the need for a claimant to show that the interests of justice were likely to be interfered with:

> ‘’7. ... First, to establish a contempt, the false statement must have been made with the intention that, or at least in the knowledge that it was likely that, the administration of justice would be interfered with as a result, see *Tinkler v Elliot* [2014] EWCA Civ 564 at [44]:
>
> *“in order for an allegation of contempt to succeed it must be shown that ... in addition to knowing that what you are saying is false, you had to have known that what you are saying was likely to interfere with the course of justice”* citing *Edward Nield v Loveday [2011] EWHC* 2324 (Admin).
>
> 8. Secondly, a false statement is one which was not true, and which when made the maker knew was not true, or did not honestly believe to be true.”

6. The burden of proof is the criminal standard of beyond reasonable doubt.

7. It follows that in this case, UCL must show beyond reasonable doubt that, firstly, the defendant’s assertion that his wife’s mother was dead is false; secondly, that the course of justice was likely to be interfered with as a result; and thirdly, that the defendant had no honest belief in the truth of the statement when he made it and intended, or knew it was likely, to interfere with the course of justice.

<u>Failure to comply with a mandatory order to disclose</u>

8. Turning then to the law in relation to a failure to comply with a mandatory order to disclose, the contempt application includes the statements which are required by the new CPR 81 and in particular, CPR 81.4. In particular, it confirms that both orders were endorsed with penal notices and served personally on the defendant and evidence of service is produced. The substantive principles were summarized by Marcus Smith J in *Absolute Living Developments Ltd (in liquidation)vs DS7 Ltd & Or* [2018] EWHC 1717 (Ch) at paragraph 30:

> ‘’… the principles in establishing whether there has been a contempt and the importance of punishing that contempt are as follow:

(1) Of critical importance is the order that is said to have been breached. As has been seen, the order generally must bear a penal notice, must have been personally served on the defendant, and must be capable of being complied with (in the sense that the time for compliance is in the future). Additionally, the order must be clear and unambiguous.

(2) The breach of the order must have been deliberate. This includes acting in a manner calculated to frustrate the purpose of the order. A difficult question relates to what 'deliberate' means. It is not necessary that the defendant intended to breach the order, in the sense that he or she knew its terms and knew that his or her conduct was in breach of the order. It is sufficient that the defendant knew of the order and that his or her conduct in response was deliberate as opposed to inadvertent. The point was put extremely clearly by Millett J. in *Spectravest Inc v. Aperknit* [1988] FSR 161 at 173:

> 'To establish contempt of court, it is sufficient to prove that the defendant's conduct was intentional and that he knew of all the facts which made it a breach of the order. It is not necessary to prove that he appreciated that it did breach the order.'

(3) Deliberate breach of an order, in the sense described, is very significant. It is clearly in the public interest that court orders be obeyed.

(4) The standard of proof, in relation to the allegation, is to the criminal standard, that is beyond all reasonable doubt."

9. So in this case UCL will have to show beyond reasonable doubt that, firstly, there is a breach of the clear and unambiguous terms of one of the orders and, secondly, that the breach was deliberate in the sense that the defendant knew of the order and the conduct which breached the order was intentional as opposed to inadvertent.

Inferences

10. I should mention inferences. Firstly, I bear in mind what was said by Vice Chancellor Scott in *Masri v Consolidated Contractors* [2011] EWHC 1024 on the approach of the court in cases of contempt:

> ''*Inferences*

> In reaching its conclusions it is open to the court to draw inferences from primary facts which it finds established by evidence. A court may not, however, infer the existence of some fact which constitutes an essential element of the case unless the inference is compelling i.e. such that no reasonable man would fail to draw it: *Kwan Ping Bong v R* [1979] AC 609.
>
> *Circumstantial evidence*
>
> Where the evidence relied on is entirely circumstantial the court must be satisfied that the facts are inconsistent with any conclusion other than that the contempt in question has been committed: *Hodge's Case* [1838] 2 Lewin 227; and that there are 'no other co-existing circumstances which would weaken or destroy the inference' of guilt: *Teper v The Queen* [1952] AC 480, 489. See also *R v Blom* [1939] AD 188, 202 (Bloemfontein Court of Appeal); *Martin v Osborne* [1936] 55 CLR 367, 375. It is not, however, necessary for the court to be sure on every item of evidence which it takes into account in concluding that a contempt has been established. It must, however, be sure of any intermediate fact which is either an essential element of, or a necessary step on the way towards, such a conclusion: *Shepherd v The Queen* 170 CLR 573 (High Court of Australia)."

11. In this case I am being asked to draw specific inferences from the failure of the defendant to call particular witnesses. In *Ahuja Investments Ltd v Victorygame Ltd* [2021] EWHC 2382 (Ch) at paragraphs 23 to 25 this was said:

> ''In my judgment, before the discretion to draw an adverse inference or inferences can arise at all, the party inviting the court to exercise that discretion must first:
>
> (1) establish (a) that the counter-party might have called a particular person as a witness and (b) that that person had material evidence to give on that issue;
>
> (2) identify the particular inference which the court is invited to draw; and
>
> (3) explain why such inference is justified on the basis of other evidence that is before the court.
>
> Where those pre-conditions are satisfied, a party who has failed to call a witness whom it might reasonably have called, and who clearly has material evidence to give, may have no good reason to complain if the court decides to exercise its discretion to draw appropriate adverse inferences from such failure."

Factual background

12. In 2020 the claimant through its liquidators issued proceedings against numerous defendants, including this defendant. That claim alleged that the defendant had participated in large scale labour fraud against UCL, using companies owned and/or controlled by him. It alleged that the defendant has misapplied and misappropriated monies which were received from customers of UCL and which should have been used to pay VAT, PAYE and NIC to HMRC. The total amount extracted from UCL was approximately £36 million. On 21 January 2022 Edwin Johnson J granted summary judgment against the defendant for breach of his duties as a director of the claimant. Following a trial to assess damages in November of 2022, the defendant was ordered to pay the claimant the sum of £27,810,675 by way of damages in interest (having taken into account sums which had already been recovered by the date of the order).

13. The claimant first obtained freezing and proprietary orders on 29 July 2020, (''the 2020 order''). That order contained a penal notice and required the defendant to (1) disclose assets over £1,000 pounds in value; (2) disclose the whereabouts of the funds caught by the proprietary injunction; and (3) deliver up his passport to be held by Wedlake Bell LLP, solicitors to the liquidators of UCL, until he complied with the disclosure requirements of the order.

14. The defendant swore his first affidavit of means on 7 September 2020 (''the First Affidavit'').

15. Following the successful application for summary judgment, a further freezing and proprietary order was made by Edwin Johnson J on 21 January 2022 which contained similar provisions (''the 2022 order''), and the defendant filed his second affidavit of means pursuant to that order on 15 February 2022 (''the Second Affidavit''). The second affidavit adopted the disclosure of means in the First Affidavit.

Contempt 1

16. The defendant's passport, and his wife's, were delivered up to Wedlake Bell pursuant to the 29 July 2020 order. On 15 July 2022 the defendant applied by application notice

for the return of both passports to enable him and his family to travel to Pakistan. Between 6 July 2022 and the hearing on 6 September 2022 before Meade J, the defendant made four witness statements in support of that application.

17. In his second witness statement dated 26 August 2022, the defendant relied on the death or illness of various relatives in Pakistan in support of his application. This included the parents of his wife, Nisa Khair Un. Paragraph 16 of that witness statement said:

> ''There are many sympathetic, moral and pressing reasons for mine and my wife Mrs Khair Un travel. Khair Un Nisa's (first defendant) parents both are on death bed and very old over 80s, and miss our children, who they have not seen for over 2 years while (they were not granted visa to travel to UK due to health reasons) and [we] do not want to be in a situation of blame for life where something happens to them, and we are preparing for these applications to court for passport which are and time consuming when she should be in flight to God forbid attend them at death bed or attend their funeral."

18. I note that the defendant also referred to his ''totally bedridden'' aunt, he said, ''who has raised me in her own hands and close to me as my mother''.

19. The Fourth WS was dated 5 September 2022 and verified by a statement of truth. The Fourth WS exhibited a death certificate for a Mrs Babo and two photographs of a dead body, saying at paragraph 3:

> ''3. I am writing this witness statement with great sorrow because, as I had mentioned in my second witness statement, point 16, that from my wife's mother and father, who were both on death bed, my wife's mother passed away on 3rd September 2022.
>
> 4. Her mother is currently in freezer and currently all her family members are waiting for my wife to visit her back to the funeral and burial can complete. HE being the only daughter and closest to her mother, she is in great paid.
>
> 5. … we have family of four little children under eight years of age, and it is important that according to our religion we are allowed to visit the deceased mother.
>
> In all the reasons given previously as per second witness statement points 10 to 20 and evidence bundle to support, that is it injustice, not

> enough that a daughter in not able to see her dying mother for last time and now even after her death she is not allowed to see her mother. Considering exceptional circumstances mentioned in witness statements and through evidence bundle, we request that order is made for the both first and second defendants' passports to be returned to them immediately so we can meet the mother in freezer for last time before she is buried in grave."

20. In addressing Meade J on 6 September 2022 at the hearing of his application on 6 September 2022, he made submissions to the judge in broadly the same terms. The transcript says:

> ''…in the second witness statement dated 26 August 2022 that there are many sympathetic moral reasons and my wife and me should be allowed (Inaudible) Mrs Nisa first defendant (Inaudible) were on that (Inaudible), which I did tell them and that they were over 80. I did mention that on 26 August, and their daughter who had not seen them for two years and their grandchildren they have not seen, they should be granted to travel.
>
> […]
>
> Her mother is currently in freezer and currently all her family members are waiting for my wife to visit her and for the funeral and burial can be completed. It belongs only daughter and closest to her mother. She is the only daughter and she is in great pain.
>
> […]
>
> We are family of four little children and (Inaudible) it is important according to our religion we are allowed to visit the deceased mother."

21. The defendant also relied on his Fourth WS, dated 5 September 2022, at the hearing in November 2022 and identified it and confirmed it was true as part of being sworn before giving evidence. The transcript shows that, firstly, the defendant identifies his fourth witness statement and confirms that he made the statement of truth to the judge. Secondly, he is cross-examined, and when cross-examined the defendant confirms that his witness statement is true, that his mother-in-law is dead and that the death certificate

relates to his mother-in-law. Thirdly, after further questioning the defendant confirms in answer to questions raised by the judge that his mother-in-law was dead and that the death certificate and photographs related to her. Finally, in addition he repeated the evidence about his mother-in-law in his oral evidence on oath before Edwin Johnson J in November 2022, where he repeatedly confirmed that his mother-in-law was dead on cross-examination and in answers to questions put to him by Edwin Johnson J.

22. During the hearing before Meade J on 6 September 2023, Ms Brittain and her solicitors contacted Mr Ghulam Abbas, the defendant's brother-in-law, which resulted in an email being sent during the hearing to Richard Saunders, who is Ms Brittain's solicitor, in which he says:

''I really appreciate that you asked about **my mother** health. She is okay and well now. You have received information that **my mother** has died, which is not true. She is alive and recovering from illness."

23. I have emphasised the words ''my mother''. When read to him in court, the defendant said ''we have just phoned him and we have confirmed that he did not write that''. The defendant said that Mr Abbas could be presented on the phone to the court and, further, that the defendant had received a message to that effect which could be forwarded to the court.

24. The defendant confirmed this version of events in his sworn evidence at the hearing on 2 and 3 November before Edwin Johnson J, where he explained that in fact he had not spoken to his brother-in-law but that his wife had, and what he had told the court is what he had understood from her.

25. However, on 5 November 2022, after the hearing before Edwin Johnson J, the defendant emailed the court seeking permission (which was refused) to:

> ''add a witness statement from my brother-in-law, Abbas, as his email was put into evidence but is not in context and requires further information and clarification. Had Mr Saunders have asked if Babo had died, he would have confirmed and informed them of her relationship to our family. For clarity, she is our God mother and is seen as a mother figure in our culture, and we refer to her as mother in

Urdu."

D's response

26. The defendant has filed a witness statement of 13 April 2023 in answer to what has been called the false death allegations. In his witness statement, Mr Raja says that his Fourth WS and his oral evidence was true but did not relate to his wife's biological mother but to his wife's ''Razai mother'', meaning her breast mother, who is given the same status in Islam as a biological mother. He says that he is not a "man of letters" and that at the time he drafted the statement, he was unable to

"come up with a direct English translation for Razai mother other than simply saying mother-in-law this was the only translation I felt did justice to her role in my wife's life, and which conveys the closeness of their relationship…".

27. In his witness statement the defendant maintains that during the November hearing, which he attended by phone or audio only internet, he was also on the phone to his wife, who then used another phone to call Mr Abbas. He explains that when he told Meade J that ''we have just phoned him and we have confirmed that he did not write that'', what he meant was that his wife had called her brother, who then confirmed to her ''at ''he did not write an email to Ms Brittain". He says that her call history only goes back to 7 December 2022.

28. A witness statement from Hafeez Muhammad Tanvir, an Imam, as to the role of a "Razai mother" has also been lodged and is not disputed. The applicant accepts the concept and role of a Razai mother and the importance of that role in the Islamic tradition but asserts that within the context of this application, the defendant was clearly not referring to his wife's Razai mother but to his wife's biological mother.

29. Mrs Nisa has also filed a witness statement in support of her husband's explanation. She says that Mrs Babo was her Razai mother. She is the dead person identified in the documents exhibited to the Fourth WS, and is the person the defendant meant when he referred to his wife's mother. The defendant was directed by Richard Smith

J to notify the claimant by 22 June whether he intended to call his wife as a witness. She filed a further witness statement on 21 June stating she would not be attending court as she had nothing further to add to her witness statement.

30. There has been a debate as to whether, pursuant to CPR 32.5 this witness statement is one which cannot be relied on because this is a trial and Mrs Nisa has not appeared to give evidence. The alternative view is this is a hearing, other than a trial, where no notice of a requirement for her to attend for cross-examination has been given pursuant to 32.7, and in which her evidence can therefore be relied upon, although the weight which may be given to it is another matter. This distinction was one which I introduced yesterday and I do not think is one which had troubled the parties in the run-up to this hearing. As I have made clear during submissions, I do not think in those circumstances it is right for any technical point to be taken as to whether or not Mrs Nisa's evidence can be relied on. I will take into account the evidence which has been lodged by the various witnesses in the form of witness statements but, having said that, in circumstances where they have voluntarily absented themselves or chosen not to attend, then very little weight can be placed by me on their evidence, in particular in relation to Mrs Nisa. She is not willing to attend, and it appears the defendant is not willing to call her to have her evidence tested in cross-examination, and in those circumstances I find I can place very little weight on her evidence. I should say the claimant goes further and says not only should I not place much weight on her evidence, I should draw adverse inferences from the defendant's failure to call her to give evidence, and I will come to that.

31. Mr Abbas has also not given evidence in writing or orally. Again the claimant says I should draw adverse inferences from that too.

Analysis and conclusion on contempt 1

32. The first point to make is that, viewed objectively, the statements made by the deceased are clearly that his wife's biological mother had died. Absent an explanation as to why the word ''mother'' was not to be given its natural meaning, that is what a reasonable person would understand from the defendant's statements in written and oral evidence. Further, in the Fourth WS he specifically links his statement of his wife's mother's

death to his earlier statement that his wife's "mother and father" and "parents" were on their deathbed. In his oral evidence he also referred to his "mother-in-law". The natural reading of that is that he is referring to her biological parents. That is what the claimant and its lawyers, Meade J and Edwin Johnson J clearly understood his evidence to be.

33. The second point is that one would expect the deceased to have known and intended that this is how his statement would be understood. He may not be a man of letters, but he does not suggest that he does not know what the word ''mother'', ''father'' and ''parent'' ordinarily means in English. He did not attempt to explain that the dead woman was ''seen as a mother figure in our culture'', as he did in his 5 November email (those are the words used in that email), thereby showing his ability to explain the point if he wishes it. Contrast the way he described his "totally bedridden" aunt "who has raised me in her own hands and close to me as my mother" in his second witness statement. Johnson J is explicit in his judgment that he understood the defendant to be clearly stating that it was his mother-in-law who had died and not someone who was a mother figure and that this was a deliberate deception.

34. There is no dispute that the time of these statements, Mrs Nisa's biological mother was not dead. It seems someone called Mrs Babo has died, but that is not Mrs Nisa's biological mother.

35. These facts therefore call for an explanation, and the defendant gave evidence to this court and was cross-examined. He stood by the contents of his witness statements of 13 April and 12 July. I found him evasive and keen to hide behind the fact that English was not his first language. He avoided answering difficult questions and he gave inconsistent answers on the same point. He initially accepted that his second witness statement, when referring to his wife's parents who were on their deathbed, was a reference to his wife's biological parents, but he changed his story during his evidence. He also raised for the first time in his Evidence a new explanation that he had not meant to deny that Abbas had sent an email to the claimant or its lawyers but that he had merely meant that Abbas had not said in an email that Mrs Babo had died. This is inconsistent with any natural reading in context of the words he used in the exchanges, and it is flatly contradicted by his witness statement at paragraph 10 which I have

quoted above (see paragraph 27). Assessing his answers against the documents and the inherent probabilities, I found him a thoroughly dishonest witness.

36. His explanation is that in the Fourth WS and oral evidence, he meant that the person who had died was Mrs Babo because she is Mrs Nisa's Razai mother. He says their relationship is so close that he could not find any other words to describe Mrs Babo other than as Mrs Nisa's mother. He had no satisfactory explanation as to why he did not explain this in his Fourth WS or in his oral evidence to two judges at two separate hearings and raised it for the first time after the hearing on the 2/3 November 2022. It is remarkable that he did not know Mrs Babo's first name. He did not know the name of her husband, who he now says was the person he referred to in his second and fourth witness statement as his wife's father or parent, and this is notwithstanding the fact that the name is apparently stated in Mrs Babo's alleged death certificate. He appeared not to be able to recognise the dead person in the photographs as his wife's Razai mother. This is simply not consistent with his evidence that Mrs Babo's relationship to his wife is such that it could only properly be described as ''mother''.

37. It is clear to me that he was caught out by the email from his brother-in-law, Abbas, during the hearing before Meade J, which Mr Raja attended by telephone. It is clear from the email that Abbas understood that he was being asked whether his biological mother had died. Significantly, the defendant's evidence to me was that he also understood the Abbas email to be saying that Abbas's mother (and therefore Mrs Nisa's biological mother) was still alive. He was unable to explain to me why he failed to provide the clarification which he sought later to provide in his 5 November 2022 email. He failed to say to Meade J that Abbas was referring to Mrs Nisa's biological mother while he, the defendant, meant her Razai mother. At the time, he simply denied that the email had been sent by Abbas.

38. Nearly two months then elapsed before the hearing in November 2022. It is not credible that the defendant had not been able to get to the bottom of any mistake or misunderstanding in Abbas's email, but he persisted throughout that hearing before Edwin Johnson J to continue to maintain that it was his mother-in-law who had died. It is clear and the defendant accepts that he knew from the questioning of Johnson J (see for example the passages in the transcript on pages 441, 442 and 443) that he was being

asked whether Mr Abbas's mother and therefore Mrs Nisa's biological mother was alive, yet he maintained that she was dead. When Johnson J asked him in terms why he had not challenged Abbas for wrongly telling the claimant's legal team that Abbas's mother and therefore Mrs Nisa's biological mother was alive, his answers can only be described as evasive. As he accepted in his evidence to me, he knew Johnson J thought the dead person in question w's Mrs Nisa's 16iologyical mother but at no point did he correct Johnson J. He was unable to give any satisfactory explanation of why not.

39. After the hearing he sent his email of 5 November raising for the first time the story that he had meant his wife's Razai mother all along. I observe that the terms of the email make clear that the defendant was now accepting that Abbas had sent the email which was read to him at the hearing before Meade J.

40. Against this background it is remarkable, if the defendant is telling the truth, that there is no evidence from Abbas and that Mrs Nisa has not been called to give evidence. In relation to Mrs Nisa, I am asked to infer that she has not attended to give evidence because neither her mother nor her Razai mother, if she has one, had died on 3 September. In relation to Mr Abbas I am asked to infer that he was not called to give evidence because he did send the email in question to the claimant's solicitors and there was no conversation with Mrs Nisa or message from him to the defendant denying he had sent it. I do draw these inferences, which reinforce the conclusions which I have independently reached on the oral and documentary evidence that I have.

41. The false death allegation was being relied on by the defendant to try and overturn the order for the retention of passports for himself, his wife and children so that they could travel to Pakistan.

42. In the circumstances I am satisfied so that I am sure, in other words, I am satisfied to the criminal standard, that, firstly, the defendant made a false statement in his fourth witness statement and in his oral evidence that his wife's biological mother had died, that Abbas had said that he had not sent the email saying she was alive or that he had a message from Abbas to that effect; secondly, that those statements were likely to interfere with the administration of justice by being taken into account by the court on his application to vary the order for the retention of his passport; thirdly, the defendant

had no honest belief in the truth of the statements and intended them to interfere with the course of justice.

Contempt 2

43. I turn now to the second contempt. In his initial disclosure, which was made within 48 hours, and in the first affidavit of means, the defendant gave the details of a Barclays account in the British Virgin Islands. In fact it transpired that those details, both account number and sort code, related to an account in the Isle of Man. After the successful summary judgment application, the claimant sought to enforce its judgment against the Isle of Man Barclays account. Pursuant to an order obtained against Barclays in the Isle of Man, Barclays disclosed the accounts held by the defendant at Barclays in the Isle of Man. This included a hitherto undisclosed account – account number, 63620794 (''the undisclosed account''). Some confusion has been caused by Barclays, but it seems that the balance was approximately £80,000.

44. The defendant's evidence is that in his disclosure he had tried to disclose this account. He had referred to a second Barclays account in the British Virgin Islands but could not recall the account details. In his oral evidence he suggested he could not get such details after the freezing order. He gave the balance of that account in his initial disclosure and in the first witness statement as approximately £70,000 pounds.

45. In support of his evidence he has produced a purported email to his solicitors dated 6 January 2021 with the correct account number, sort code and balance of the undisclosed account. What this shows is that the defendant had access to full details of the undisclosed account in January 2021. There is absolutely no reason to think he did not have such access when he made his first affidavit of means, and he failed to correct the non-disclosure in his second affidavit pursuant to the January 2022 order (''the 2022 order'').

46. I am therefore satisfied so that I am sure that the defendant has deliberately failed to disclose the assets and the undisclosed account in breach of at least the 2022 order.

Contempt 3

47. The claimant says it has traced three payments totalling £975,189 to Pakistan by or at the direction of the defendant. The payments were made to Shabnam Sharfaraz, who the defendant initially said was an aunt and now says is a more distant relative. No further details, such as account numbers to which the payments were made, have been disclosed, and the claimant says that this is in breach of the disclosure orders. In relation to one payment of £528,000, Edwin Johnson J found, and the defendant accepted in his evidence to me, that this was the same transfer as was referred to in the defendant's evidence as a loan by him to Shabnam Sharfaraz to enable her to complete works to her property in Pakistan.

48. Further evidence of Louise Brittain was produced in her fifth witness statement alleging the discovery of three accounts in UBL in Pakistan, two in the sole name of the defendant and one in joint names with Shabnam Sharfaraz. This was responded to by the defendant in a witness statement of 12 July 2023 and in an affidavit or witness statement of Shabnam Sharfaraz of 11 July 2023. They (namely the defendant and Shabnam Sharfaraz) assert that the assets are hers and not the defendant's. She says that she opened the bank accounts in the defendant's name because of restrictions on her having a current account in her name, because she is a government employee. She has not attended to give evidence.

49. The explanation as to why the accounts were opened by Shabnam Sharfaraz is incomprehensible. The defendant could shed no light on it. The following further points should be noted. Firstly, there is no explanation as to how Shabnam Sharfaraz was able to open a bank account in the defendant's name without his knowledge, never mind his approval and active involvement. It is not credible that she could do so. Secondly, the bank statements were found on the defendant's computer. The defendant's explanation for this is someone told him Shabnam Sharfaraz was operating these accounts, so he called the bank to get the statements, which they willingly provided with no security checks. This is also not credible. Thirdly, the bank statements have his UK phone number on all of the bank statements. He says this is because he called the bank many times to change the number on the account to his phone number, but on each occasion Shabnam Sharfaraz changed it back. Again, he says that the bank was willing to change the numbers at his request over the telephone with no security. This is not credible either. Fourthly, no bank statements have been

produced with anyone's phone number on them except the defendant's. Fifthly, Shabnam Sharfaraz is the person to whom £1 million appears to have been transferred from UCL at the direction of the defendant. I am satisfied beyond reasonable doubt that these accounts are the defendant's accounts, that they were opened by him or with his knowledge and ap'roval, and his evidence that they belong to Shabnam Sharfaraz is a lie.

50. The period of the bank statements in the defendant's possession for the joint account starts on 1 February 2022, although I note that the defendant's evidence was that these accounts were opened by Shabnam Sharfaraz two or three years ago, so they will have been in in existence prior to 1 February 2022. The second affidavit of means was made on 15 February 2022. I am satisfied that the defendant knew about the accounts when he made the second affidavit of means, although he may not have had these particular statements at that time, and that he has deliberately failed to disclose them in the 15 February 2022 affidavit. I am similarly satisfied in relation to the first of the sole accounts, which is labelled ''current deposit, super current account'', in which the period in which the statements run begins on 1 November 2021 and proceeds through to 30 June 2022, that the defendant knew about these accounts when he made his second affidavit of means and failed to disclose them. At least one of those bank statements was requested by him on 1 December 2021 before the 2022 order was made and before he filed his 15 February 2022 affidavit of means.

51. So far as the third account is concerned, this is slightly different. This is has a different account number from the other two and it is called a current account NRAR. There is one statement only in respect of this account. It has an opening balance on 1 July 2021 of 0. Some 437,904 rupees was paid in on 20 August. I am told that that is roughly £1,500. There is a closing balance on 10 September 2021 of 435,182.95 rupees. There is no evidence of what the balance was at the date of the 2020 order and no evidence of what the balance was at the date of the 2022 order. Bearing in mind the sums involved are quite close to the £1,000 threshold at which the defendant is under an obligation to disclose his assets, even though I am satisfied that these are his assets, I am not satisfied that it is proved that this was a breach of either of those disclosure orders. I will observe that it does beg the question of where the monies came from which went into this account.

52. In those circumstances, I find that all the three contempt allegations as I have categorised them are made out.

Epiq Europe Ltd hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

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This transcript has been approved by the Judge