Neutral Citation Number: [2025] EWHC 673 (Ch)

Case No: BL-2018-000544

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

Royal Courts of Justice, Rolls Building
Fetter Lane, London, EC4A 1NL

Date: 20/03/2025

Before :

MR JUSTICE ADAM JOHNSON

- -

Between :

(1) TONSTATE GROUP LIMITED (IN LIQUIDATION)
(2) TONSTATE EDINBURGH LIMITED (IN LIQUIDATION)
(3) DAN-TON INVESTMENTS LIMITED (IN LIQUIDATION)
(4) ARTHUR MATYAS **Claimants**

- and -

EDWARD WOJAKOVSKI & 11 ors
Defendants

GIL WOJAKOWSKI
Respondent

- -
- -

Sam Goodman and **Isabelle Winstanley** (instructed by **Rechtschaffen Law**) for the **Claimants**
The **Respondent** did not appear and was not represented

Hearing date: 22 January 2025

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Approved Judgment

This judgment was handed down in court at 11.30am on Thursday 20 March 2025 and by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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Mr Justice Adam Johnson:

Introduction

1. This is an application for the committal of Gil Wojakowski ("*Gil*") for contempt of Court.

2. The charge of contempt is that Gil has failed to comply with paragraph 3 of my Order made at a hearing on 10 April 2024 ("*the Order*"). This was a Bankers Trust type Order. Paragraph 3 required Gil to provide certain categories of information and documents. Nothing has been supplied in response.

3. A particular issue arises about service of the Order on Gil. This raises a point of general importance. I will address it below, before going on to consider the question of contempt and, if the contempt is made out, the question of sanction.

4. To begin with, however, I will set out some brief background. More detail is set out in my earlier Judgment of 26 April 2024 ([2024] EWHC 975 (Ch) – "*the Bankers Trust Judgment*").

Background

5. The wider background involves a fraud perpetrated on the Tonstate Group of companies, the present Claimants. The fraud involved the unlawful extraction of funds by Edward Wojakovski ("*Edward*"), who is Gil's brother. These have come to be known as "*the Extractions*". Many millions of pounds remain unaccounted for.

6. The Bankers Trust application heard on 10 April 2024 was issued and served in December 2023. Gil initially acted in person. He submitted two initial witness statements in response on 26 February and 29 March 2024, but these were put forward expressly on the basis that Gil intended to contest the jurisdiction. Fieldfisher LLP were instructed to act just before the hearing, and filed a Notice of Change on 8 April 2024, giving their business address as the address for service for Gil. A Skeleton Argument and further witness statement submitted immediately prior to the hearing also reserved Gil's position as to jurisdiction.

7. The Claimants' application was based on the proposition that the Extractions or their proceeds had found their way into (i) an Israeli trust, and/or (ii) bank accounts outside Israel held in the name of Edward and Gil's father, now deceased, Mr Gideon Wojakovski.

8. The Israeli trust is formally known as the "*Wojakovski Brothers Trust*", but I will refer to it simply as "*the Trust*". It was established under the joint will of Gideon Wojakovski and his wife, now sadly also deceased, Miriam Wojakovski ("*the Will*"). Gil is the executor of the Will and the Trustee of the Trust. The Trust assets are understood to include the beneficial interest in a BVI company, Maxima Holdings Limited ("*Maxima*").

9. At the hearing on 10 April 2024 I accepted the Claimants' case that there was evidence of the filtering of Extractions via Maxima; that there was evidence of Edward relying on inherited monies to disguise the destination of the Extractions; that there was

evidence of a commingling of the proceeds of Extractions with family monies, said to have been derived from Edward's father Gideon; and also that there was evidence of Gil being involved in the use of funds derived from the Extractions (see the Bankers Trust Judgment at [27]). Taking account of such matters, I made the Order sought by the Claimants. I will set out the relevant terms of the Order below (see at [43]).

10. Gil is an Israeli citizen and is resident in Israel. The Court though had personal jurisdiction over him on the basis that, as a director of an English company, Keystone MHD (General Partnership) Limited ("*Keystone*"), he had registered an English service address with Companies House under s.1140 Companies Act 2006. By the time of the hearing on 10 April 2024, Gil had in fact changed his service address to an address in Israel: but that was too late to make a difference, because the Bankers Trust application was served on him at the English address on 15 December 2023, before the change was notified.

11. There was further activity by Gil at around the time of the hearing on 10 April 2024. As well as being a director of Keystone, Gil was also a shareholder. But at some point on or around 10 April, he transferred his shareholding interest to a friend, Mr Tuvia Lewkowicz. The Claimants have now issued proceedings under s.423 of the Insolvency Act 1986, challenging the transfer to Mr Lewkowicz as a transaction with a view to defrauding creditors ("*the s.423 Claim*"). I gave permission for service out of the s.423 Claim at a hearing on 14 May 2024. It is now being defended on the merits. Gil has instructed solicitors and counsel and has filed a Defence dated 9 January 2025.

Service

The 10 April 2024 Hearing

12. The hearing of the Bankers Trust application on 10 April 2024 took a slightly unusual course. Part way through the hearing, after I had indicated my view that the English Court had personal jurisdiction over Gil for the reasons given above, he instructed his solicitor and counsel team - Fieldfisher and Ms Karishma Vora - to play no further part in the hearing. They, and he, remained as observers, but did not participate further. As recorded in the Bankers Trust Judgment at [12], this was because of a concern that, by continuing actively to participate, Gil might then be submitting to the jurisdiction in a manner which might prejudice his position as regards recognition and enforcement of any resulting Order in Israel. The hearing nonetheless proceeded, and at its conclusion, I indicated that I would make the Order sought, with reasons to follow (those are the reasons set out in the Bankers Trust Judgment, delivered on 26 April 2024). At the request of Mr Fulton KC, counsel for the Claimants, the Order contained the following provision at para. 6:

> *"Personal service upon the Second Respondent [Gil] is dispensed with under CPR 81.4(c) and service of this Order upon the Second Respondent may be effected through service upon Fieldfisher".*

13. I should mention that the reference to CPR, rule 81.4(c) was an error: the Order should have referred to rule 81.4(2)(c). Nothing at all turns on that, however.

11 and 12 April 2024

14. The Order was drawn up and formally sealed on the following day, 11 April 2024. The events of 11 April were again a little unusual, however, and give rise to the issue about service I have referred to.

15. The main point is that at 10.26am on the morning of 11 April, before the Order had been finally drawn up and sealed for service, Gil sent to the Claimants' solicitor Mr Rechtschaffen a Notice of Change, saying that Fieldfisher had ceased to act for him, and that he was now acting in person. He gave an address for service in Israel.

16. The Order was sealed by the Court and provided to the Claimants for service later the same day, 11 April 2024, at approximately 4.25pm. At 8.50pm on 11 April a sealed version of the Order was sent by the Claimants to Fieldfisher by way of service by email. A further copy was also sent to Fieldfisher by courier.

17. Gil objected. In an email sent to the Court on the morning of the following day, 12 April 2024, he said:

> *"Despite their knowledge [of the Notice of Change], it appears that the honourable court was misled by applicants' counsel and requested that the court issue its order to Fieldfisher LLP law firm who does not represent me and is not authorized to receive any documents on my behalf."*

Later Events

18. To complete the picture, I should mention two further matters. First, the Claimants sent a further copy of the sealed Order by email to Gil on 15 April 2024, to a professional email address used by him to correspond both with the Claimants and the Court. Second, shortly after that Fieldfisher made their own application to come off the record as solicitors for Gil. That was by Application Notice dated 23 April 2024. I granted that application by my Order dated 26 April 2024.

Was Service on Fieldfisher Valid Service?

19. Given this background, the issue which arises is whether service of the Order on Fieldfisher was valid service, given that by the time such service was effected, Gil had both instructed his solicitors and counsel team to withdraw from representing him at the hearing on 10 April 2024, and had then filed his Notice of Change, giving his alternative address for service in Israel.

20. The Claimants submit that service on Fieldfisher was valid service, essentially because Gil's Notice of Change was defective in failing to give an alternative address for service within the jurisdiction, so that Fieldfisher's business address remained a valid address for service by default. If that is wrong, then the Claimants submit that the Court should exercise its power under CPR, rule 6.15(2), and retrospectively validate the service on Fieldfisher and declare it as effective service, because there is "*good reason*" to do so under CPR, rule 6.15(2).

21. Although I originally had some doubts on this point (referenced in my further Judgment of 20 May 2024: see [2024] EWHC 1196 (Ch) at [4] and [20]), I have come to the view that service on Fieldfisher on the evening of 11 April 2024 *was* valid service. If that is wrong, then I agree with the Claimants that the proper approach would be to validate such service retrospectively under CPR, rule 6.15(2).

22. The starting point is unless the Court orders otherwise, a "*party to proceedings*" must give an address for service which must be within the United Kingdom: CPR, rule 6.23(1)-(3). Where a solicitor is instructed, the address for service will be the solicitor's business address: CPR, rule 6.23(2)(a). Any change of address must be notified as soon as it has taken place: CPR, rule 6.24. The scheme of these provisions is very clear. Absent an Order of the Court to the contrary, a party to proceedings must maintain an address for service in the United Kingdom.

23. There is no doubt that Fieldfisher's business address was a valid address for service for Gil to begin with. They were his solicitors, and so their business address was automatically valid for service under CPR, rule 6.23(2)(a). The issue is whether that address stopped being a valid address for service before the evening of 11 April 2024, when the Order made at the hearing on 10 April was sent to them.

24. What is important here is how the rules which apply when a solicitor ceases acting for a party dovetail with the rules on service. Reading them together I am fully persuaded by Mr Goodman's submission that the latter are designed to work in a manner which, consistently with the former, positively obliges a party to proceedings to maintain an address for service in the United Kingdom.

25. One can see that from the overall structure of CPR, rules 42.1, 42.2 and 42.3. By rule 42.1, a solicitor will be considered to continue acting for a party – and thus the solicitor's business address will continue to be an effective address for service – "*until the provisions this Part have been complied with*". What do they require?

26. Rule 42.2 deals with the situation where a party serves a notice of change, either to appoint a new solicitor or to give notice that the party will now be acting in person. The notice of change must "*state the party's new address for service*". That means a new address for service in the United Kingdom, in accordance with rule 6.23. The point is made clear by PD 42, para. 2.4, which says expressly that where a party who has previously had a solicitor decides to act in person, they must "*give in the notice an address for service that is within the United Kingdom*".

27. The same is true in the case where a solicitor is forced to make an application that they have ceased to act. That is dealt with in CPR, rule 42.3. The Notes at para. 42.3.7 say that if an order is made removing a solicitor from the record, then "*the party for whom the solicitor was acting must give a new address for service as required by Practice Direction 42 para. 5.1*". PD 42 para. 5.1 says that such a party must "*give a new address for service to comply with rules 6.23(1) and 6.24*" – i.e., an address in the United Kingdom.

28. In light of all this, and in agreement with Mr Goodman's submissions on the point, I consider that the correct analysis is as follows. The Notice of Change served by Gil on the morning of 11 April 2024 was defective, because if failed to supply an alternative address for service in the United Kingdom. That being so, and the provisions of Part

42 thus *not* having been complied with (see [25] above), Fieldfisher continued as solicitors on the record, and their business address continued to be an effective address for service: see CPR, rule 42.1. Neither did Gil's obligation to maintain an address for service dissolve after my Order of 26 April, allowing them to come off the record. He was still bound to provide one, absent an Order of the Court to the contrary: see PD 42, para. 5.1.

29. None of this is changed by the fact that, at the hearing on 10 April, Gil told his solicitor and counsel team to play no further active part in the proceedings, after the Court had determined the issue of personal jurisdiction against him. At an earlier stage in these proceedings, I was cautious on this point: my concern was that the provisions in CPR, rule 6.23 which require provision of a service address in the United Kingdom, bite only on a "*party to proceedings*". My issue was whether it was correct to describe Gil as a "*party to proceedings*" after his instruction to his legal team on 10 April, not to participate further in the proceedings in any active way (this was the point flagged in my Judgment of 20 May 2024 at [4] and [20]).

30. On reflection, however, and in light of Mr Goodman's submissions, I am persuaded that Gil *did* remain a party to the English proceedings in the relevant sense. The effect of my determination that the Court had jurisdiction over him on a proper basis was that the action against him was properly constituted. He was, and remained, a party to it, and was therefore bound to comply with the procedural rules applicable to all such parties.

31. It makes no difference that he chose not to participate further, for fear of submitting to the jurisdiction by engaging with the merits of the claim. That was a different matter. The English Court's jurisdiction was not based on any submission in that sense. It was based on Gil having provided an address for service under the Companies Act which was valid at the time of service on him, and on the case otherwise having a sufficient connection with England & Wales to justify the Court granting Bankers Trust relief against a person abroad. The question of Gil submitting in the sense of engaging with the merits of the claim was relevant only for the purposes of any potential enforcement activity in Israel. What Gil was concerned about was the risk that by engaging with the merits of the Bankers Trust application in England, he might then be taken to have submitted to the English Court's jurisdiction in a manner which an Israeli Court would regard as effective, thus rendering any Order or judgment enforceable in Israel. A party who contests jurisdiction is always able to do so without making a submission in that sense, and if the challenge fails is always able to walk away before engaging with the merits and thus submitting in a manner that might enable any judgment or order to be enforced abroad (Re Dulles' Settlement (No.2) [1951] Ch 842 C.A., and see now the provisions of CPR, rule 11). But even if the defendant does walk away to avoid making a submission by defending on the merits, he is nonetheless still a party to the ongoing English proceedings: indeed, that is precisely the effect of the Court having rejected the challenge and having decided that it has jurisdiction over him.

32. On the present facts, the effect in my opinion is that Gil *was* validly served with the Order by means of service at Fieldfisher's business address on the evening of 11 April 2024. He was obliged to give an address for service in the jurisdiction in any Notice of Change. He did not do so in his Notice served on the morning of 11 April: so it was invalid, with the effect that Fieldfisher remained as solicitors on the record until

released by my Order of 26 April 2024. Their business address was therefore a valid address for service for the period prior to that, including on 11 April.

Retrospective Validation under CPR, rule 6.15(2)

33. I think the above analysis is clear. Even if I am wrong, however, the case would then be an obvious one for an order validating service via Gil's own email address retrospectively, as an appropriate means of alternative service under CPR, rule 6.15(2). In Abela v. Baadarani [2013] UKSC 44, [2013] 1 WLR 2043, Lord Clarke (with whom the other Justices agreed), indicated that in such cases "*... the court should simply ask itself whether, in all the circumstances of the particular case, there is a good reason to make the order sought*." On the hypothesis that Fieldfisher's business address was technically not valid for service as from 10.26am on the morning of 11 April, in my opinion there is good reason to make an order retrospectively validating service of the Order on Gil via his professional email address on 15 April (see above at [18]). The good reason is that Gil as a party to English proceedings was obliged to nominate an address for service in the United Kingdom but had failed to provide one.

34. Not only that, but I also think there is little doubt that Gil's motivation in serving his Notice of Change was positively to try to avoid service at any English address. He made no secret of that fact and effectively flagged it himself in his email to the Court (above at [17]), when he emphasised that in light of his Notice of Change, Fieldfisher in his view were "*not authorized to receive any documents on my behalf*." That was clearly his desired outcome. The conclusion is reinforced by Gil's earlier decision to change his registered service address at Companies House to an address in Israel (see above at [10]). Where a party to English litigation takes positive steps to avoid having an address for service in the United Kingdom, it should come as no surprise if the Court authorises service (whether prospectively or retrospectively) by alternative means. Although not a necessary part of the analysis, I would also note here the inherently suspicious timing of Gil's transfer of ownership of his shareholding in Keystone to Mr Lewkowicz in the period immediately prior to the hearing on 10 April. Gil in his Defence in response to the Claimants' s.423 Claim has denied any impropriety, but the order of events gives rise to a justifiable suspicion which has yet to be dispelled.

Was it correct to proceed in Gil's absence?

35. Consistent with his previous pattern of behaviour, Gil did not appear at the present hearing to defend the contempt proceedings against him and was not represented. Thus, one matter I had to decide at the hearing was whether to proceed in Gil's absence. I determined to do so, for the following reasons.

36. Cobb J set out some guidance in Sanchez v. Oboz [2015] EWHC 235 (Fam) at [5], in the form of a checklist of factors to guide the exercise of discretion. Applying such factors here leads to the clear conclusion that it was right to proceed:

    i) The first factor is whether the Respondent has been served with the relevant documents including notice of the hearing. Here, I am satisfied that Gil was. The question of service of the Order is dealt with above. The Contempt Application and supporting evidence were served on Gil in Israel on 23 September 2024, at his place of business. Gil signed and dated the cover letter.

Notice of the hearing was emailed to him by the Court on 7 January 2025, some two-weeks before the hearing on Wednesday 23 January.

ii) The second factor is whether the Respondent has had sufficient notice to be able to prepare for the hearing. I think that is sufficiently addressed by the matters at (i) above.

iii) The third factor is whether any reason has been given for the Respondent's non-appearance. Here, no express reason was given, but consistent with Gil's prior behaviour, it seems likely that his decision not to participate was a conscious one because he does not accept the jurisdiction of the Court over him. This is important because it suggests there would have been no point in granting an adjournment: Gil's position was not likely to change.

iv) The fourth factor is whether there is anything to suggest that the Respondent has waived their right to be present – i.e., is it reasonable to conclude that the Respondent knows of, or is indifferent to, the consequences of the case proceeding in their absence. This seems to me closely related to the third factor above. I would not say that Gil is indifferent to the consequences of the case proceeding; but I do think it fair to say that he is resigned to it, and has made a conscious decision not to participate further.

v) The fifth factor is whether an adjournment would secure or facilitate attendance. I think not: see (iii) above.

vi) The sixth factor is the extent of the disadvantage to the Respondent in not being able to present their account of events. There was plainly some disadvantage here, but not such as to prevent the matter proceeding. There seems to be little doubt as to the main matters for determination. I have dealt with the contested issue of service above. As to compliance with the Court's Order, in Gil's Defence in the s.423 Claim, which is dated 9 January 2025 and was prepared by Leading and Junior Counsel, he admits (at para. 15) that he has not done the things the Order required him to do. He does not admit any contempt, or accept that the "*procedural preconditions*" for a finding of contempt are made out: but those are matters which the Court is capable of addressing with the assistance of counsel for the Claimants, and in my opinion it is correct to do so given there is no real prospect of receiving assistance from Gil himself.

vii) The seventh factor is whether undue prejudice could be caused to the applicant by any delay. This seems to me to be the flipside of (v) above. The question of prejudice to the applicant does not strictly arise if, as here, there is no point in an adjournment; but had it been relevant, I would have said there was prejudice because the point of the Order is to require provision of information with a view to identifying the whereabouts of the Claimants' assets, and the longer the delay in the provision of that information the greater the risk that the assets will ultimately be irrecoverable.

viii) The eighth factor is whether undue prejudice would be caused to the forensic process if the application were to proceed in the absence of the Respondent. I do not see that it would. As the Claimants have pointed out, there is no counterfactual in which Gil is likely to appear and present his own case. So the

choice for the Court was either to proceed without him or not at all. Given the nature of the contempt alleged and the issues in play (see (vi) above), my view was and is that the Court is capable of dealing with the application appropriately, and will not be unduly disadvantaged by Gil's absence.

ix) The final factor is the effect of the overriding objective. In my opinion, the overriding objective was and is best addressed by proceeding: there is no point in an adjournment, and absence of the Respondent should not prevent a fair determination of the issues required to resolve the application.

37. For all those reasons, I determined to proceed with the Claimants' application and will now proceed to determine the question of liability.

Should the Court make a finding of contempt?

38. One can start with the relevant test in law. This is well known, but was recently summarised by Miles J in Mortgage Finance 4 plc and others v Rizwan Hussain [2022] 4 All E.R. 170, at [39]. The party alleging contempt must show that the alleged contemnor:

i) knew of the relevant order;

ii) acted (or failed to act) in a manner which involved a breach of the order; and

iii) knew of the facts which made their conduct a breach.

39. The burden is on the party alleging contempt to prove those three requirements beyond reasonable doubt (*ibid*., at [40]).

40. On the present facts, I find that each of the elements is established beyond a reasonable doubt.

Knowledge of the Order

41. This is clear beyond any doubt. Gil was present via video-link at the hearing before me when the Order was made. It is clear that he received a copy of the Order in draft, because in the afternoon of 11 April he sent some comments on the draft direct to the Court via my clerk, although by then the Order in the form proposed by the Claimants and approved by me had already been sealed (see above at [16]).

42. I have dealt already above with the question of whether such service via Fieldfisher was effective: in my opinion it was. As I have also noted, for good measure Gil was sent a further copy of the sealed Order directly by email to his own email address a few days later, on 15 April 2024. I think there is no doubt at all that he knew about the Order, and knew what it required him to do.

Acted/failed to act in a manner involving a breach

Overview

43. Paragraph 3 required the following of Gil:

> *"3. Insofar as they are in his possession or control [Gil] shall produce to the Claimants' solicitors by no later than 4pm on 1 May 2024 the following information and documents:*
>
> *a. a schedule setting out the nature, location and estimated value of all assets over £5,000 owned by [Maxima] or otherwise said to be held (directly or indirectly) subject to the trust purportedly created by the joint will of Gideon and Miriam Wojakovski dated 20 March 2008;*
>
> *b. copies of the following, from 1 January 2000 to the date of this Order:*
>
> *i. bank statements for all of Maxima's bank accounts worldwide;*
>
> *ii. Maxima's annual financial statements;*
>
> *iii. bank statements for all accounts outside Israel held in the sole or joint name of Gideon Wojakovski, including but not limited to UBS a/c 24324388034773 and 24324388034760;*
>
> *c. Evidence of the origin of Maxima's funds as used in the purchase of Flat 29c The Burroughs London NW4 4NT and Flat 1, 101 Station Road, London NW4 4AR".*

44. There has been no compliance, or even attempted compliance, with any aspect of paragraph 3.

45. That is an agreed position: as already noted, Gil's Defence in the s.423 Claim (mentioned above at [11]) states expressly: "*It is admitted that (for the reasons mentioned above [i.e., Gil's jurisdictional objections]) Gil has not done the things that the Adam Johnson J Order directed him to do*".

46. Looking at matters more substantively, paragraph 3 of the Order requires Gil to produce information and documents provided they are in his possession or control. On the evidence, I am satisfied beyond any reasonable doubt both (1) that the items requested *are* within Gil's possession or control, and (2) that there are in fact relevant documents and information falling within each of the sub-categories of paragraph 3, which therefore should have been disclosed but have not been.

Possession or Control

47. Dealing first with the question of what is within Gil's possession or control, the items at sub-paragraphs 3(a), (b)(i) and (ii) and (c) all concern Maxima. On this point, Mr Goodman for the Claimants drew my attention to paragraph 17 of Gil's Third Witness Statement dated 10 April 2024, where he said the following: "*Currently, the shares in Maxima are held in my late mother's name, and the title to those shares have not been transferred to the Trust of which I am Trustee.*"

48. It is quite clear from the terms of the Will however (see for example at para. 3(a)) that all items falling within the estate of the late Miriam Wojakovski were to form part of the Trust from the time of her death. It must follow that the interest Miriam Wojakovski had in the Maxima shares was transferred to the Trust on her death. Gil as Trustee must from that point be taken to have had practical control of Maxima's documents and information. I do not see why it would make any difference if Miriam Wojakovski remained named as holder of the shares on the relevant share register; and even if she did, Gil would have had power to require the register to be changed to reflect the updated position.

49. The idea that Gil exercises practical control over Maxima's affairs is supported by other evidence. For example, when a flat was purchased in the name of Edward's daughter Nathalie at Station Road, Hendon in 2018, Gil was involved in an email exchange on 11 October 2018 about Maxima providing funding and taking security. The email trail is incomplete, but entries on the Land Register as at August 2019 showed a charge over the property in favour of Maxima. (This is one of the transactions also captured in para. 3(c) of the Order).

50. The remaining item is that at para. 3(b)(iii) of the Order: this does not concern Maxima but instead seeks information about Gideon Wojakovski's bank accounts outside Israel. The same broad analysis applies. All of Gideon Wojakovski's assets were to pass to the Trust on death, and so Gil – as Trustee – will have access to documents and records concerning those assets, including bank accounts.

Documents and Information

51. The analysis thus far deals with what is within Gil's possession or control, as Trustee of the Trust. The further matter to address is whether I can be satisfied that there are in fact documents and information in existence falling in the categories covered by the Order, but which have not been produced in response to it. Again, I think the position relatively straightforward.

52. Sub-paragraph 3(a) concerns assets of the Trust with a value of over £5,000. I am satisfied that there must be such assets. That has never been contested. When the Claimants' Bankers Trust application was heard in April 2024, Gil's submissions in response did not take issue with the idea that there were assets falling within the scope of the Order proposed (and as now made). Indeed, his submissions made the opposite assumption. One, for example, was to the effect that the Order was too wide and would catch too much information; another was that complying with it would potentially put Gil in breach of duties under Israeli law owed to the Trust's beneficiaries.

53. There are other positive indicators that the Trust must comprise assets with a value of over £5,000. For example, the terms of the Trust include provisions consistent with management of a substantial fund (clause 13 provides a guaranteed income for Gideon and Miriam's children equal to "*100% of the average wage in the market at that time*"; and clause 15 empowers the Trustee to "*invest the endowment funds as [he sees] fit to preserve and improve the endowment assets* ..."). We know from Gil's own evidence that his father Gideon was a successful and wealthy businessman whose assets on death will certainly have exceeded £5,000. We also know from Edward's evidence (in an Affidavit dated 1 July 2024), that he received a loan from Maxima (part of the Trust) of some £818,382.

54. Looked at in the round, the evidence leaves me in no doubt at all that there must be Trust assets with a value exceeding £5,000, which fell to be disclosed under the terms of sub-paragraph (a) of the Order.

55. Sub-paragraphs 3(b)(i) and (ii) both concern Maxima. Sub-paragraph 3(b)(i) concerns Maxima's bank account statements. It is clear that Maxima has bank accounts. That follows (for example) from the fact that it was able to make a loan to Edward (see immediately above). The Bankers Trust Judgment refers specifically to an account of Maxima at Bank Leumi (see at [17]). Sub-paragraph 3(b)(ii) concerns Maxima's annual financial statements. I have no direct evidence as to Maxima's accounting practices, but the production of annual financial statements is standard for most companies of any size and so there must be a very strong inference that Maxima produced such statements and that these should have been disclosed.

56. Sub-paragraph 3(b)(iii) concerns bank statements outside Israel of Gideon Wojakovski, whether in his sole name or held jointly. Gil himself has given evidence as to the existence of one such account, in his Third Witness Statement at paragraph 15 where he says "*He [Gideon] held a bank account in Switzerland with funds generated from his business*". At paragraph 16, Gil suggests this is an account at Julius Baer bank.

57. Finally, sub-paragraph 3(c) concerns information as to the origin of funds from Maxima used in the purchase of two London properties. Edward in his Affidavit of 1 July 2024 states that two London properties were financed by loans from Maxima. That account is corroborated in the case of the Station Road Flat by the fact that Maxima held a charge over it, and by the email exchange I have already referred to above (see at [49]) in which Gil was concerned about the risks of transferring money and about ensuring that the "*rights of Maxim (in the apartment) are secured*" (Maxim, I infer, is a reference to Maxima).

Knowledge of Facts Making Conduct a Breach

58. In light of the conclusions expressed already above, I am satisfied beyond a reasonable doubt that Gil knew of the facts making his conduct a breach: he knew he was required to make disclosure under the Order, and knew of his own failure to make such disclosure.

What Sanction should be imposed?

59. I will consider the question of sanction by reference to the matters identified by the Supreme Court in Attorney General v. Crosland [2021] UKSC 15 at [44].

60. Seriousness: To begin with, I regard the contempt here as a serious one. Adopting the factors recently endorsed by the Court of Appeal in Business Mortgage Finance 4 plc v. Hussain [2022] EWCA Civ. 1264 at [120]: (1) The Claimants have been seriously prejudiced by Gil's breach of the Order, since its purpose was to enable them to trace their own property and the breach has meant they have been unable to do so. (2) There is no suggestion that Gil acted under pressure or as a result of the conduct of others. (3) There is no doubt that the breach was deliberate: as his Defence in the s.423 Claim makes clear, Gil has refused to comply because he does not acknowledge the Court's jurisdiction over him. (4) I consider Gil's level of culpability is high: in my Judgment of 26 April 2024, I made findings as to Gil's apparent complicity in Edward's efforts

to disguise the movement of the Extractions (see at [27(v)]-[27(vii]), and his breach of the Order must be viewed in that broader context. (5) There can be little doubt that Gil himself appreciates the seriousness of his actions: he describes himself in his own evidence as an experienced lawyer in civil and commercial law. And finally (6), Gil has offered no apology. Neither has he offered any excuse. His explanation for his behaviour is that he does not consider the Court should have made any Order against him; but that obviously does not excuse non-compliance. The proper course for a litigant in such a position is to seek permission to appeal, not to refuse to comply with the Order made. Gil could have done that here, while preserving any objection to the jurisdiction, and could have sought a stay of execution in the meantime. None of that was done.

61. Fine or imprisonment? In light of the seriousness of the breach, I do not consider that a fine would be an appropriate sanction.

62. What period of imprisonment? In McKendrick v. Financial Conduct Authority [2019] EWCA Civ. 524, 4 WLR 65 at [40], the Court of Appeal gave the following general guidance:

> *"... because the maximum term is comparatively short, we do not think that the maximum can be reserved for the very worst sort of contempt which can be imagined. Rather, there will be a comparatively broad range of conduct which can fairly be regarded as falling within the most serious category and as therefore justifying a sentence at or near the maximum".*

63. For the reasons already given above, in my opinion Gil's conduct in the present case can fairly be regarded as serious: the breach was deliberate, and was calculated specifically to have the effect of preventing the Claimants obtaining information as to the whereabouts of their own unlawfully extracted funds. There has been no attempt at compliance or co-operation. Instead there has been a total failure to comply.

64. In the circumstances I would impose a custodial sentence of 12 months' imprisonment. In my view that represents the shortest period of imprisonment I can impose, having regard to the seriousness of the contempt I have identified.

65. Mitigation: There has been no expression of remorse. I acknowledge Gil's evidence of his professional background as a lawyer, which indicates previous good character; but weigh against that my earlier findings referred to above as to Gil's apparent involvement in efforts to disguise the whereabouts of the Extractions. Overall I do not consider there are mitigating factors of any real weight, sufficient to displace my view that a sentence of 12 months imprisonment is appropriate in the circumstances.

66. Impact on Persons other than the Contemnor: The Trust provides support for Gideon and Miriam's oldest son, Oron, who has special needs (clause 4 of the Will refers to "*the unique needs of our oldest son, Oron* ..."). I am mindful of that, but do not consider that it should affect the sentence in this case, because Gil ought to be able to make arrangements for the due administration of the Trust in his absence.

67. Early Admission: There has been no admission of contempt. Gil's Defence in the s.413 Claim says the opposite, at paragraph 15: "*It is not admitted that Gil is in contempt of court ...*".

68. Suspension? As I have mentioned above, Gil did not appear at the hearing of the Claimants' application and was not represented. In the circumstances, what I propose to do, following the practice in other, similar cases (e.g. Johnson v. Argent [2016] EWHC 2978 (Ch)), is to suspend immediate operation of the sentence for a short period, namely 28 days, expiring on 17 April 2025. That will give Gil one final opportunity to comply with the Order. One might think this somewhat unrealistic, given Gil's apparently uncompromising stance to date. But it seems to me that an important function of the contempt jurisdiction is to seek to secure compliance, and both pragmatism and fairness require Gil be given an opportunity to reconsider his position in light of the findings now made in this Judgment. Thus if, on or before 17 April 2025, he purges his contempt by complying with the Order in full, then he will be entitled to invite the Court to remit the custodial sentence I have proposed. If there is no compliance and no application for remission, then he will be liable to arrest and committal to prison for the period I have indicated, which in practice under the provisions of the Criminal Justice Act 2003, s.258 will mean serving one-half of the suggested sentence, i.e. 6 months.

69. Other Matters: Gil is resident abroad and contests this Court's jurisdiction over him. All the same, I consider a sentence of imprisonment appropriate as an expression of the Court's disapproval of his contempt and as a mark of its seriousness. In this regard I agree with the comments made by Whipple J in VIS Trading Co Ltd v. Nazarov and ors [2015] EWHC 3327 (QB) at [58]: the Court cannot stand by in the face of disobedience of its orders, just because the contemnor is out of the jurisdiction. In any event, an appropriate sentence will have practical consequences, including reputationally. Moreover, it is still possible that the sentence given in this case will encourage compliance, given the terms of the suspension I have described above.

70. During the hearing before me, there was some discussion as to whether, if the s.423 Claim now pending is successful, and if in the meantime Gil has not returned to the jurisdiction and submitted to a sentence of imprisonment, it might then be possible for the present sentence to be revisited, and some form of sequestration order made instead over any interest of Gil's in Keystone (see above at [10]-[11]). The point was not fully developed, however, and I am unclear whether the Court would have power to revisit a sentence it has already given in light of changed circumstances. I will say no more about this issue, therefore. If it is to be pressed in the future, it will need to be the subject of a separate application and submissions.

Conclusion

71. I will make declarations as sought to the effect that the Order of 10 April 2024 was duly served, and to the effect that Gil is in contempt of that Order. I will impose a custodial sentence of 12 months imprisonment, suspended for 28 days expiring on 17 April 2025, on the basis described above at [68].

72. I remind Gil that he has an automatic right of appeal to the Court of Appeal, without permission, against both the findings of contempt in this Judgment and against the sentence imposed to the Court.