Neutral Citation Number: [2025] EWHC 1966 (Ch)

Case No: BL-2021-002235

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

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 1 August 2025

Before :

HHJ PAUL MATTHEWS
(sitting as a Judge of the High Court)

- -

Between :

KLOTHO BRANDS LIMITED (FORMERLY KNOWN AS LION/HEAVEN UK II LIMITED)	**Claimant/ Applicant**
- and -	
KEVIN-GERALD STANFORD (FORMERLY KNOWN AS KEVIN GERALD STANFORD)	**Defendant/ Respondent**

- -
- -

Ben Valentin KC and Ellen Tims (instructed by **Proskauer Rose (London) LLP**) for the **Applicant**
The Respondent did not appear and was not represented

Hearing date: 23 July 2025

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This judgment was handed down remotely at 10:30 am on 1 August 2025 by circulation to the parties or their representatives by e-mail and by release to the National Archive

HHJ Paul Matthews :

INTRODUCTION

General

1. This is my judgment on a contempt of court application by notice dated 23 June 2025 by the claimant in this case (originally called Lion/Heaven UK II Ltd) against the defendant, based on alleged breaches of the order of Clare Ambrose, sitting as a deputy High Court judge, dated 5 April 2022 (but sealed on 6 April 2022). The application is supported by two affidavits of Steven Baker, the applicant's solicitor, dated 23 June 2025 and 17 July 2025 respectively. It is opposed by an affidavit of the respondent dated 18 July 2025, which was actually made in support of an application form N244 dated 21 July 2025 for a stay (in effect) of the contempt application. The applicant appeared before me by leading and junior counsel instructed by solicitors. The respondent did not appear, and neither was he represented. I will return to that.

2. The order dated 5 April 2022 was made in a claim under CPR Part 8 for a declaration and injunction relating to the consequences of a share purchase agreement dated 5 May 2011 and a settlement agreement dated 22 November 2012. The claimant's case in that claim was that, under these agreements, the defendant had given up all his interest in "A" ordinary shares and preference shares in a company called All Saints Retail Ltd. Moreover, it said, he had agreed not to assert that he had any interest in or to the Shares. However, the defendant had been asserting that these agreements were ineffective by reason of a fraud allegedly practised upon him by his banks in 2009, and that accordingly he retained his interest in the company's shares, title to which (he said) had never passed to the claimant.

The trial of the Part 8 claim

3. Although the defendant sought the transfer of the proceedings from Part 8 to Part 7, on 11 February 2022 Marcus Smith J declined to make such an order. The matter accordingly proceeded to a trial under CPR Part 8, of which the defendant had notice, but declined to attend. The deputy judge considered the written evidence, though without the benefit of cross examination, and held that she was satisfied that the defendant had not proved his allegations of fraud. The claimant's claim succeeded, and the deputy judge made a declaration that the defendant no longer had any interest in the shares, and that the claimant had become their owner, and granted an injunction to restrain the defendant from asserting any interest in them: see the judgment under neutral citation number [2022] EWHC 850 (Ch).

4. In the course of her judgment, the deputy judge said this:

> "74. Mr. Stanford has made assertions in these proceedings that he was fraudulently induced to conclude the 2011 SPA and 2012 Settlement Agreement, and on that basis the agreements were null and void or were vitiated. He also asserts that a number of the Claimant's directors had knowledge of that fraud. He failed to justify the matter being decided under

> Part 7. More significantly, he failed to provide any realistic evidential basis for substantiating these serious allegations of fraudulent inducement. His own assertions and statement evidence did not substantiate his case on fraud or knowledge of fraud, and I reject it.
>
> 75. I reject his case that the allegations of fraud were substantiated or supported by the Claimant's failure to affirm that there was no fraud. He appears to have considered that he was making a reasonable compromise in asking for an affidavit. However, he put forward no basis for his assertions and Mr. Lea [of the claimant] had made a clear and unequivocal statement, supported by a statement of truth making clear that neither he nor any other of the Claimant's directors were aware of fraud. This statement was made in these proceedings at an early stage but this did not stop Mr. Stanford pursuing his position in an increasing number of documents.
>
> 76. Mr. Stanford responded to this claim by making positive allegations of fraud and the burden lay upon him to establish those allegations. He failed to establish that the 2011 SPA or 2012 Settlement Agreement were induced by fraud. He put forward no other defence to the claim. It was implicit that if the SPA was valid then he had no answer to the Claimant's case that it conferred title to the ASRL Shares on the Claimant and he retained no interest: this was apparent from its wording."

The order of 5 April 2022

5. The order made by the deputy judge began with the following recitals:

> "**UPON** the Claimant's claim by Part 8 Claim Form dated 8 December 2022 [sic]
>
> **AND UPON** the trial of the Claim, the Court having ordered on 11 February 2022 that the Claim proceed as a Part 8 Claim and be tried on an expedited basis
>
> **AND UPON** the Defendant, Kevin Gerald Stanford being on notice of the hearing of the trial, and having the opportunity to attend, but not appearing or being represented
>
> **AND UPON** reading the written evidence filed by the Claimant and the Defendant
>
> **AND UPON** hearing Ben Valentin QC for the Claimant … "

6. The relevant operative terms of the order were as follows:

> "**IT IS DECLARED THAT**:
>
> 1. Pursuant to a Share Sale and Purchase Agreement dated 5 May 2011, and a Settlement Agreement dated 22 November 2012, each between (among other parties) Lion/Heaven UK II Limited and Mr. Stanford:

> (1) Mr. Stanford has no rights, interest or claims in or to the 'A' ordinary shares and preference shares which he had formerly held in the capital of All Saints Retail Limited ('the Shares') (or any of them) because Lion/Heaven UK II Limited is the legal and beneficial owner of the Shares; and/or
>
> (2) Mr. Stanford, having agreed not to assert that he has any rights, interest or claims in or to the Shares (or any of them), and having released Lion/Heaven UK II Limited from any claim to the contrary, is not entitled to claim or assert that he has any rights, interest or claims in or to the Shares (or any of them).
>
> **AND IT IS ORDERED THAT**:
>
> Permanent Injunction
>
> 2. Mr. Stanford is restrained, by himself, or through others acting on his behalf or on his instructions or with his encouragement, from asserting in any way whatsoever any rights, interest or claims in or to the 'A' ordinary shares and preference shares which he had formerly held in the capital of All Saints Retail Limited."

7. This order was not served personally on the defendant. One of the issues which I will have to deal with in this case is whether I should dispense with that requirement, by exercising the court's undoubted discretion to do so. I will return to this issue later.

The present application

8. The claimant (now applicant) has issued the present contempt of court application alleging that the defendant (now respondent) has breached the terms of the injunction. In particular, the application notice focuses on two documents. The first is a letter dated 2 January 2025 from the respondent to officers of the applicant. The second is a document headed "Statutory Notice under the Proceeds of Crime Act 2002". This was sent not only to the applicant, but also to others, including the applicant's statutory auditor, the applicant's solicitors, and two banks (not the two banks that were alleged to be involved in the fraud). The applicant says that the terms of these two documents, prepared and sent by the respondent, breach the injunction. The applicant also points to other documents produced and distributed by the respondent since then, which the applicant says also breach the injunction.

9. Box 12 of the prescribed form of contempt application (N600) is headed "Summary of facts alleged to constitute the contempt". Here, the applicant has written the following:

> "3. On 2 January 2025, Mr Stanford asserted that he was fraudulently induced to sign a Deed of Undertaking dated 13 March 2009 between himself and Kaupthing Bank h.f. shortly after Kaupthing Bank h.f. and Kaupthing Bank Luxembourg S.A. had entered into a conditional settlement agreement dated 3 March 2009 ('CSA'), without knowledge of

> the CSA, with the supposed consequence that the Sale Agreement and Settlement Agreement that were the subject of the proceedings leading to the Order were both void.
>
> 4. On 9 May 2025, Mr Stanford purported to issue a 'Statutory Notice under the Proceeds of Crime Act' (the 'POCA Notice', with the stated consequence that the Shares were classified as 'criminal property' under the Proceeds of Crime Act 2002. This has been followed by the service of a number of supposedly related 'notices'. Mr Stanford has corresponded with the Court in this connection, requesting that the Court file certain materials on the Court file. He has also filed an application notice seeking a 'stay of any contempt proceedings threatened or intended' by the Applicant unless and until the purported 'statutory classification' under POCA has been 'rebutted under oath or addressed by lawful disclosure'.
>
> 5. In breach of the Order, the effect of Mr Stanford's conduct between December 2024 to the present date is to directly and/or indirectly assert a right, interest or claim in or to the Shares by impugning the lawfulness of the Applicant's legal or beneficial interest."

PROCEDURE

10. The application notice was not served personally on the respondent, but it was sent to him at his home addresses and by email. At the hearing before Leech J on 11 July 2025 of an application to expedite the hearing of the substantive application, the judge said he was satisfied that the respondent had had notice of the application, and made an order dispensing with personal service as to the application notice, but also for the future. (He did not deal with the question of personal service of the original order.) He also made the order sought for an expedited hearing, and directed that the matter be listed before me for one day in a window from 23 to 25 July 2025. This listing was communicated to the respondent by the court and also by the applicant's solicitors. There were then a significant number of email communications between the respondent and the court, and letter and email communications between the respondent and the applicant's solicitors. Nevertheless, the hearing took place on 23 July 2025, as I have said, without the attendance or representation of the respondent.

The respondent's application for a stay

11. What the respondent did do was to make an application by notice dated 21 July 2025 for a stay of the contempt application. This application reached me on 22 July 2025, the day before the hearing. It was supported by the affidavit to which I have already referred, dated 18 July 2025. This made a number of points. They included a submission that the respondent had not been served in accordance with his "lawful enrolled identity". This appears to have been a reference to the fact that on 11 March 2024 the respondent executed a deed poll to evidence a change in his name from "Kevin Gerald Stanford" to "Kevin-gerald Stanford". It appears that this deed has been enrolled in the King's Bench Division of the High Court. I will return to this later.

12. A further submission was that the sealed order of Leech J dated 11 July 2025 had been addressed to "KEVIN-GERALD STANFORD", which is a private unlimited company incorporated in the United Kingdom. Accordingly, said the respondent, there had been no service on "lawful identity Kevin-gerald Stanford". A third submission was that the order of 5 April 2022 had been obtained by fraud, in that some of the evidence filed on behalf of the claimant had been fraudulent and that this had not been tested, because this was a claim tried under CPR Part 8, rather than Part 7. The problem with this, of course, is that the deputy judge in 2022 *had* considered the respondent's allegations of fraud, but had expressly rejected them, and there was no appeal. (I set out the relevant paragraphs, [74]-[76], earlier in this judgment.)

13. The application notice asked that the application be dealt with on paper, pursuant to CPR rule 23.8, which provides in part:

> "(1) The court may deal with an application without a hearing if—
>
> (a) the parties agree the terms of the order sought;
>
> (b) the parties agree to dispense with a hearing; or
>
> (c) the court does not consider that a hearing would be appropriate."

14. At the hearing I pointed out that this rule was *permissive*, in enabling the court to depart from the default position, which was a hearing in court. It was not *mandatory*, and did not confer a right on a litigant to insist on a "paper hearing". It was not suggested to me that the parties had agreed (a) the terms of the order sought or (b) to dispense with a hearing. As for (c), on receiving the application the day before, I had considered that it would be more appropriate for the application for a stay to be dealt with at a hearing already arranged for the next day. Amongst other things, this would enable debate between the parties in real time. My decision was communicated to the parties.

15. The respondent buttressed his application with further documents, including an email sent to the court on the morning of the hearing. In part it said the following:

> "For the avoidance of doubt, my N244 application dated 21 July 2025 was submitted for paper determination under CPR 23.8. It raises matters that are independent of the contempt application, to which I have never been lawfully joined under CPR 19.4 or served in accordance with CPR 81.8(1)(a).
>
> I respectfully maintain that it would be procedurally improper and a potential violation of Article 6 of the European Convention on Human Rights for the Court to collapse or dispose of that application within the contempt hearing, or to treat my non-attendance at that hearing as submission in relation to the N244.
>
> A formal Judicial Notice titled ***"Judicial Notice of Non-Joinder, Statutory Classification, and Risk of Unlawful Enforcement under POCA***

> ***2002"*** was filed earlier today via CE-File and is being served on all parties. It preserves the procedural and evidential record in full."

16. As I have already said, the respondent did not appear at the hearing before me, and neither was he represented. I could have dealt with the application by saying that, as neither he nor any representative was present to make the application, it should be dismissed. Instead, I took the course of reading the documents put forward by the respondent, and hearing Mr Valentin KC for the applicant. Thereafter, I gave an extempore judgment, dismissing the application on its merits, and setting out my reasons.

The family trust's application for a stay

17. In addition to the respondent's application for a stay, the respondent's son Lukas Kevin Stanford made a similar application, by notice dated 17 July 2025 (though he neither attended nor was represented at the hearing). He did this purportedly in his capacity as sole trustee of the DS Family Trust. The application notice is actually in the name of "DS Family Trust". But in English law a private trust is not a legal *person*, and thus cannot be a party to litigation. Instead, it is a legal *relationship* between certain persons in relation to certain assets. The trustee of the trust is the legal owner of the assets, the person with the responsibility of protecting and vindicating the trust property for the benefit of the beneficiaries of the trust. It is therefore the trustee who takes part in any relevant legal proceedings.

18. Looking at the documents filed, this discretionary trust for the benefit of members of the Stanford family appears to have been settled in 2009, in the usual offshore trust way of the time (see *eg Schmidt v Rosewood Trust Ltd* [2003] 2 AC 709, [1]). In the present case, this involved the apparent provision, by a person unconnected with the family, but defined as "the Settlor", of a nominal sum of money, to which more significant assets were later added by the real settlor, whose name does not appear. The original trustee was Axis Fiduciary Ltd of Mauritius. There was no evidence to show directly how and when this company ceased to be trustee. It was still in office in 2011 and 2012, when it was party to the share purchase agreement and the settlement agreement in that capacity. There was a letter in the hearing bundle dated 5 June 2025 signed by the Settlor of the trust (but no one else) purporting to appoint Lukas Stanford as trustee.

19. The problem with this letter is that, according to clause 12 of the trust deed in the documents before me, the power of removing and appointing trustees is conferred upon the *protector* of the trust, or, failing a protector, upon the *trustee*. But the Settlor is neither of these. Moreover, according to the same clause, the new trustee must sign the document of appointment. Again, Lukas Stanford has not signed the letter of 5 June 2025. Accordingly, it does not appear that Lukas Stanford was ever validly appointed as trustee of the trust. On that basis, therefore, he had no standing to present this application in the capacity of trustee, and I could properly have dismissed the application on that ground alone, let alone that he did not appear to make his application before the court.

20. Nevertheless, I considered the position as if he had such standing. The problem then would be that his complaint, in part at least, was the same as that of the respondent. That is, that there was a fraud in the transactions of 2011 and 2012, and also in procuring the decision of deputy judge Ambrose, which fraud (it is said) avoided the sale of shares to the applicant. Yet that adds nothing to the application of the respondent himself, which (as I said) I refused for reasons given in my oral judgment given on 23 July 2025. So, even if he were properly appointed the sole trustee of the trust, I could not accede to the application to grant a stay on that basis.

21. However, Lukas Stanford submitted that the trust (more correctly, the trustee, which is the legal person concerned) had a further complaint. This was that, since the then trustee was a party to the share purchase agreement of 2011 and the settlement agreement of 2012, the trustee should have been joined to the 2022 litigation. However, in breach of the rules, he said, it was not. Moreover, the 2022 order affected the rights of the trustee, and so should not have been made. I gave another extempore judgment, dismissing the application on its merits, and setting out my reasons. In summary, I said that Lukas Stanford's understanding of the rules was mistaken, that the claim and order in 2022 concerned only the respondent and his shares, and not the trust and its share, that it was for a claimant to decide who to sue, and that as a general proposition court orders do not bind non-parties, so that the trust, not being a party, was not prejudiced.

Whether to proceed in the respondent's absence

22. I then moved on to consider whether it was appropriate to deal with the contempt application in the absence of the respondent. I was addressed by Mr Valentin KC for the applicant. I considered the authorities, and in particular *Sanchez v Oboz* [2015] EWHC 235 (Fam), and *Madison Pacific Trust Ltd v Groza* [2024] EWHC 2307 (Comm). Finally, I considered the facts of this case. Then I gave a further extempore judgment, setting out my reasons for proceeding with the application in the respondent's absence.

THE CONTEMPT APPLICATION

Facts found

The evidence

23. In this application, all the evidence before the court has been in written form. First of all, both the 2022 order and judgment of the deputy judge contain some findings of fact (notably about what happened in 2011 and 2012). There having been no appeal and no application to set aside the judgment, it is not open to the respondent at this hearing to go behind the findings of fact that the deputy judge made about the allegations of fraud inducing the respondent to enter into those transactions. Secondly, I had the two affidavits of Mr Baker, the applicant's solicitor, and the affidavit of the respondent. Thirdly, there is the evidence of the many written communications between the parties and also with third parties, copies of which were exhibited to those affidavits.

Findings

24. Accordingly, I find the following facts for the purposes of this application. As the third recital to the order made clear, but the other evidence satisfies me, the respondent knew of the 2022 trial, but chose not to attend it or be represented at it. On 6 April 2022, the applicant's solicitors sent copies of the sealed order to the respondent by email to his personal email address, and by post to his two home addresses (which letter and order in fact the respondent exhibited to his affidavit on this application). They did not personally serve it on him. The court itself emailed a copy of the judgment to the respondent's personal email address on 8 April 2022.

25. The terms of the respondent's own email to the court later on the same day showed that he had received the judgment. His letter of 12 December 2024 to the directors of the claimant (apparently sent by Post Office "special delivery") referred to "the enclosed sealed Order dated 5 April 2022", which the respondent said contained defects rendering it unenforceable. (These were the fact that in 2024 he had changed his name and evidenced this by an enrolled deed poll, and the fact that the order was not signed by the judge.) Finally, albeit this is after the conduct complained of, his own affidavit of 17 July 2025 refers to "the declaration dated 5 April 2022." It is clear beyond a peradventure that the respondent has since April 2022 had copies, and been aware, of the judgment and the order, and of the precise terms of both.

26. The two documents relied on by the applicant in its application notice as evidencing the breaches of the order are (1) a letter dated 2 January 2025 from the respondent to officers of the applicant, and (2) a document headed "Statutory Notice under the Proceeds of Crime Act 2002", dated 9 May 2025.

27. Document (1) on its face says it is sent from the respondent's home address, and it is apparently signed by him. In paragraph [54] of Mr Baker's first affidavit, he says this:

> "By a letter dated 2 January 2025 sent to Messrs Lea and Darwent in their capacities as directors of Lion Capital, Mr Stanford set out the basis for a fraud claim in relation to the Applicant's acquisition of the shares in ASRL."

28. The respondent's affidavit does not in terms deny that he sent that letter. However, in section 5 of the affidavit he says:

> "In neither of Mr Baker's affidavits does he identify a single act that breaches the 2022 Order."

I do not read this as a denial of sending the letter, but, in the context of what the respondent also says, rather a statement that nothing that he has done amounts to a breach. In other words, although Mr Baker has referred to many things, none of them is an "act which breaches the 2022 Order". In these circumstances, I am satisfied, to the criminal standard, that the respondent sent this letter.

29. The letter itself is very long. It includes the following:

> "**The Fraud and its Impact on Title**
>
> The enclosed chronology shows how my assets were used in a conspiracy between the management of Kaupthing Bank Luxembourg (KBLUX) and Kaupthing Bank HF (KBHF) just days before the bank's collapse to save KBLUX.
>
> … Ultimately, KBHF misappropriated and used my assets to settle this exposure (GBP 250,479,179.38) to KBLUX within the Conditional Settlement Agreement (CSA) on 3 March 2009, despite relying on fraudulent documentation and misrepresentations, meaning KBHF never obtained lawful title … "

and

> " … fraud prevents any transfer of ownership that would extinguish my equitable interest in the assets."

30. The letter also contains the following statement:

> "**Full Compliance with Court Order BL-2021-00223**
>
> Despite the fact that the Order with Penal Notice issued in claim BL-2021-002235 references an implied name that is not legally enforceable against Kevin-gerald Stanford, I have continued to act in full compliance with its terms.
>
> This correspondence is not intended to challenge the Court's authority or assert rights over the shares referenced in the Order. Instead it seeks to offer a constructive resolution by addressing the unresolved questions regarding [the applicant's] awareness of the fraud preceding the 2011 SPA and its implications for the chain of title."

31. Document (2) is headed "Statutory Notice under the Proceeds of Crime Act 2002". It is addressed to a number of persons or entities, including the applicant. It is dated 9 May 2025, and once again bears what appears to be the respondent's signature, though this time there is no address given for him. In his first affidavit Mr Baker says:

> "56. On 9 May 2025, Mr Stanford purported to issue a 'Statutory Notice under the Proceeds of Crime *Act 2002*' ('POCA Notice'). The POCA Notice was sent as an attachment to an email on 9 May 2025 to Messrs Lea and Darwent, other members of Lion Capital, ASRL, Proskauer, KPMG, EY, Wells Fargo, Lloyds Banking Group, Allianz, Coface and the British Venture Capital Association … "

32. Once again, the respondent's affidavit does not in terms deny that he sent that letter, but contains the statement in section 5 of his affidavit identified above. For the same reasons as previously set out, I find that the evidence of Mr Baker on this point too is in effect unchallenged. I am satisfied, to the criminal standard, that the respondent sent the Notice of 9 May 2025.

33. This Notice contains the following statement, amongst others:

> "This is a notice only, issued on the basis that shares in AllSaints and any derivative proceeds or related instruments constitute criminal property under section 340(3)(b) POCA. The origin of the taint is the unlawful misappropriation of those shares through the Conditional Settlement Agreement (CSA) dated 3 March 2009, which was used to settle internal Kaupthing Bank debts using my assets without authority, consent, or lawful title. That misappropriation constitutes the moment at which the shares became criminal property. The taint attaches at the point of misappropriation and renders the title irrecoverably defective. No downstream transaction, including the 2011 Share Purchase Agreement, can cure or sanitise the origin. The shares are criminal property in law and void in equity, incapable of conferring lawful control or benefit."

34. It also contains the following statement:

> "For the avoidance of doubt this notice does not challenge, circumvent or seek to vary the sealed Order dated 5 April 2022. It asserts no legal or equitable claim, seeks no enforcement, and is not a substitute for litigation. It is issued solely to discharge a statutory duty under section 340 of the Proceeds of Crime Act 2002, now that the evidentiary threshold has been met and the risk of continued use of criminal property has crystallised."

The references to the Proceeds of Crime Act 2002 are explained below.

35. Although the applicant in its application notice relied on statements made in these two documents, the evidence in support of the application referred to a further 10 documents which it was said were sent by the respondent and which contained similar statements to those in the first two documents. They were sent in May and June 2025. I was taken through all of these documents at the hearing by Mr Valentin KC, on behalf of the applicant. On the material before me, I am satisfied to the criminal standard that the respondent did produce and send all of these documents. The statements contained in them are largely to similar effect as the statements in the first two documents, and I am satisfied that none of them contains any material which goes further than that which is contained in those documents. Given that they were the focus of the application itself, I shall therefore concentrate on what is contained in them.

The law

Court orders

36. I turn now to consider the relevant law. I begin with that relating to court orders. CPR rule 40.2 relevantly provides that:

> "(1) Every judgment or order must state the name and judicial title of the person who made it…
>
> (2) Every judgment or order must –

> (a) bear the date on which it is given or made; and
>
> (b) be sealed by the court."

37. In this rule, the phrase "judgment or order" has a technical meaning derived from the history of civil procedure: see *Civil Procedure*, 2025, para 40.1.1, and *Onslow v Commissioners of Inland Revenue (No 2)* (1890) 25 QBD 465, 466. In that phrase, "judgment" does not refer to the reasons given by the judge for the court's decision (which is the usual meaning of judgment today). Instead, it has a similar meaning to "order", that is, the formal document recording the decision of the court. The important thing to notice from rule 40.2, however, is that there is no requirement that the judge *sign* the "judgment or order". Accordingly, a judgment or order is not invalid because there is no judicial signature on it. It is the seal that authenticates the order.

Contempt: procedure

38. Procedure in contempt cases is governed by CPR Part 81. CPR rule 81.4(2) relevantly provides that:

> "(2) A contempt application must include statements of all the following, unless (in the case of (b) to (g)) wholly inapplicable—
>
> […]
>
> (c) confirmation that any such order was personally served, and the date it was served, unless the court or the parties dispensed with personal service;
>
> (d) if the court dispensed with personal service, the terms and date of the court's order dispensing with personal service … "

39. In *Business Mortgage Finance 4 Plc v Hussain* [2023] 1 WLR 396, Nugee LJ (with whom Arnold and Stuart-Smith LJJ agreed) said:

> "78. … In general an application for committal for breach of an injunction can only be brought where there has been personal service of the injunction which is sought to be enforced. That is not expressly provided for by Part 81, or anywhere else in the rules, but it is recognised by CPR r 81.4(2)(c) which presupposes that this is the general rule …
>
> […]
>
> 80. There is nothing in the language of CPR r 81.4(c) and (d) which suggests that such service can only be dispensed with prospectively and not retrospectively. In my judgment therefore the power to dispense with personal service of the injunction which is recognised by those rules can indeed be exercised retrospectively … "

40. In *Madison Pacific Trust Ltd v Groza* [2024] EWHC 2307 (Comm), another contempt application, Bryan J said:

> "99. In such circumstances, the Claimant applies for an order retrospectively dispense with the requirement for personal service, and has done so as part of the Contempt Application itself, as envisaged by the Court of Appeal in *Business Mortgage CA*. As Nugee LJ noted in that case (at [81]), applying separately for retrospectively dispensing with personal service would '…lead to unnecessary duplication and extra cost with no apparent benefit to anyone.'
>
> 100. The relevant test is the same under the revised CPR Part 81 as it was under the previous iteration of Part 81: whether any injustice has been caused to the Defendants by reason of the Claimant's failure to effect personal service on them (*Business Mortgage* at [57]). The "key question" is whether the Court is satisfied to the criminal standard that the material terms of the order were effectively communicated to the Defendants and the Defendants had actual knowledge of its terms (see *MBR Acres Limited v Maher and another* [2023] (QB) 186 ('*MBR Acres*') at [117]; and *Business Mortgage CA*, supra at [79]).
>
> 101. Although it is suggested in *MBR Acres* that the Court may only dispense with service '*exceptionally*', there is no requirement of '*exceptional circumstances*' (see *Khawaja v Popat* [2016] (Civ) 362 at [40]).
>
> 102. As is also said in the White Book commentary to CPR6.2(8) ('Power to dispense with service of a document other than the Claim Form'), at paragraph 6.28.1:
>
> > 'there are good reasons why dispensing with service of originating process, such as a claim form, should require exceptional circumstances to be established and a lesser standard should apply to documents served in the course of proceedings'.
>
> 103. I also agree with what is said in *Gee on Commercial Injunctions* (7th ed) at paragraph 19-041 that the Court:
>
> > 'should be willing to dispense with service, and to do so to enable an order of committal to be made, if the respondent was aware of the terms of the injunction [and…] the lack of formal service has not caused him prejudice or unfairness […]'.
>
> 104. In this regard, and as was said in *Group Seven Ltd v Allied Investment Corpn Ltd* [2014] 1 WLR 735 at [37], the overriding objective would not be served by requiring personal service of the Disclosure Order '*purely as a matter of form*'."

Contempt: substance

41. More generally on the law of contempt of court, at first instance in *Business Mortgage Finance 4 Plc v Hussain* ([2022] EWHC 449 (Ch)), Miles J said:

> "37. The principles are well known. Proceedings for civil contempt are sometimes described as 'quasi-criminal' because of the potential penal consequences. They are criminal proceedings for the purpose of Article 6 of the ECHR. The charges raised have to be clear; the criminal standard of proof applies; and the respondent has a right to silence. There must be a high standard of procedural fairness: see *Navigator Equities Limited v Deripaska* [2021] EWCA Civ 1799, per Carr LJ, at [79].
>
> 38. The fact that civil contempt proceedings are criminal proceedings for the purpose of Article 6 does not mean that they are not civil proceedings: see *Masri v Consolidated Contractors International Company SAL* [2011] EWHC 1024 (Comm), at [157]; *Navigator Equities* at [80].
>
> 39. The applicant is required to establish the following elements to the criminal standard of proof: (i) that the alleged contemnor knew of the terms of the order; (ii) that he acted (or failed to act) in a manner which involved a breach of the order; and (iii) that he knew of the facts which made his conduct a breach: see *Kea Investments Ltd v Watson* [2020] EWHC 2599 (Ch), per Nugee LJ, at [19]. It is not necessary for the applicant to show that the alleged contemnor acted in the belief that what he did was a breach of the order or that his conduct was contumacious (though that is highly relevant to sanction): *Kea Investments*, at [26].
>
> 40. Each element has to be proved to the criminal standard. This does not mean that every fact or piece of evidence relating to each element must itself be proved beyond reasonable doubt. In a case based wholly or primarily on circumstantial evidence, the Court must assess the evidence cumulatively rather than piecemeal …" (referring to *JSC BTA Bank v Ablyazov (No 8)* [2013] 1 WLR 1331, at [52]).

42. The decision of Miles J was affirmed by the Court of Appeal: [2023] 1 WLR 396. As to the law of contempt, at [96], Nugee LJ said:

> "There was again no dispute as to the legal principles applicable to Miles J's findings of fact. They were summarised by him in the Liability Judgment at [37]-[42] and [counsel for the appellant] did not criticise this summary."

The Proceeds of Crime Act 2002

43. Lastly, I must refer to the Proceeds of Crime Act 2002. Section 340 of this Act relevantly provides:

> "(1) This section applies for the purposes of this Part.
>
> (2) Criminal conduct is conduct which—
>
> (a) constitutes an offence in any part of the United Kingdom, or
>
> (b) would constitute an offence in any part of the United Kingdom if it occurred there.
>
> (3) Property is criminal property if—

> (a) it constitutes a person's benefit from criminal conduct or it represents such a benefit (in whole or part and whether directly or indirectly), and
>
> (b) the alleged offender knows or suspects that it constitutes or represents such a benefit."

But, contrary to the suggestion made by the respondent in his Notice of 9 May 2025, section 340 does not impose any duty on any person to make such a notice as he has made.

44. The importance of the definitions given in section 340 is that the preceding sections of the 2002 Act create a number of criminal offences dealing with "criminal property". For example, section 329, subject to exceptions (such as making an authorised disclosure, and acquisition or possession for adequate consideration), provides that

> "(1) A person commits an offence if he –
>
> (a) acquires criminal property;
>
> (b) uses criminal property;
>
> (c) has possession of criminal property."

45. Section 337 of the Act provides for what is called a "protected disclosure". But the section does not impose a duty on any person to make such a disclosure. Instead, the consequence of making such a disclosure is simply that there is no breach by reason of the disclosure of the particular information. It is facultative, and not mandatory. In any event, sending the notice to the addressees given in the notice could not amount to a protected disclosure, because one of three conditions that have to be satisfied is that "the disclosure is made to a constable, a customs officer or a nominated officer as soon as is practicable after the information or other matter comes to the discloser" see section 337(4)). That condition would not be satisfied here.

46. Section 338 of the Act provides for what is called an "authorised disclosure". Once again, the section does not impose a duty on any person to make such a disclosure. Instead, making such a disclosure can prevent another offence under earlier provisions of the Act from arising. One of the conditions required for an authorised disclosure is that it is a disclosure "to a constable, a customs officer or a nominated officer by the alleged offender that property is criminal property" (see section 338(1)(a)). The notice in this case does not satisfy that condition, firstly because none of the addressees of the notice was a constable, a customs officer or a nominated officer, and secondly because the respondent was not, and does not claim to be, the alleged offender.

Submissions

The applicant

47. First of all, the applicant submitted that it was appropriate for the court to dispense with personal service of the 2022 order. This was because the respondent had in fact been served with copies of the sealed order both by email and post, and moreover the respondent referred to both the judgment and the order in a number of items of correspondence, thus showing that he was well aware of its terms. Indeed, on more than one occasion he has averred that he has adhered to those terms (for example, in his letter of 2 January 2025). He would therefore suffer no conceivable prejudice from the absence of personal service.

48. Secondly, the applicant submitted that the respondent, being fully aware of the terms of the order, has acted in ways which involved breaching the order, and knew all the facts which made his conduct a breach. Whether he believed that he was breaching the order or not was irrelevant.

The respondent

49. The respondent in his evidence and his correspondence to the court did not seek to challenge his knowledge of the 2022 order and its terms. Nor did he deny producing the documents which are attributed to him. What he did was to deny that he had been properly served, or indeed that he had been properly joined to the proceedings. Over and above that, he denied that what he had done amounted to a breach of the order. He relied mainly on the claim that there had been a fraud on the court in 2022, in that the order was obtained by virtue of false evidence by an officer of the applicant.

Discussion

Litigants in person

50. In considering this case, I bear in mind that the respondent is a litigant in person, and not a trained lawyer. He cannot be expected to communicate with the precision expected of such a lawyer. But there is no special dispensation for litigants in person from obeying the ordinary procedural rules, and indeed the substantive laws, which apply just as much to unrepresented as to represented litigants: *Barton v Wright Hassall LLP* [2018] 1 WLR 1119, SC. In any event, the respondent is a sophisticated and experienced businessman, well used to obtaining legal advice when he wished. Moreover, it appears that he has instructed specialist criminal solicitors in relation to some aspects of this case, even if he did not retain them for this application.

Dispensing with personal service

51. On the question whether the court should dispense with personal service of the 2022 order on the respondent, I am in no doubt that it would be right to do so. The respondent has not been prejudiced by the failure to serve it personally. For reasons already given, he was and is well aware of the existence of both the order and the judgment which led to that order, and of the terms of each of them. The application is sensibly made at this stage of the proceedings, on the one hand allowing the respondent if he wishes to explain why he would be prejudiced, and, on the other, not causing the expenditure of extra costs at an

earlier stage. I will therefore make the order sought by the applicant dispensing with personal service.

Service and joinder

52. I turn now to the respondent's contentions that he has not been properly served with this application nor indeed properly joined to the proceedings. The respondent appears to be under the impression that service of a document for the purpose of legal proceedings is invalidated if the document is not addressed to the person actually served by the name which that person currently wishes to be known by. As a matter of English law, this is wrong. Subject to statutory provision providing differently, the question is always one of intention, gathered from the document itself in the context of the surrounding circumstances. Was *this* document intended for *that* person? *cf Harmond Properties Ltd v Gajdzis* [1968] 1 WLR 1858, CA; *Edgeworth Capital (Luxembourg) Sarl v Cuatrecasas Gonçalves Pereira LLP* [2025] EWHC 1014 (Ch) [54].

53. Thus, service of a document referring to "Jon Smith" is still valid if effected by a lawful method on a person whose current name is "John Smith", if the person on whom it was in fact served was the person intended to be served. Obviously, if there are two people called "John Smith", one involved in legal proceedings and the other not, and a document intended for service on one is by accident served on the other, there will be no good service on the former. And although there may be "good" service on the latter, that will be irrelevant for the purposes of the proceedings.

54. The respondent says that he changed his name by deed poll, enrolled in the High Court on 10 March 2024. This is not quite accurate. In English law, your name is what others call you. You change your name by getting others to call you by your new name, and not by making or filing a document. A deed poll is simply *evidence* of your wish to change your name, and to get others to use the new one in relation to you. It is not the only kind of evidence that can be used for this purpose: statutory declarations are also frequently employed. And indeed, no *formal* evidence is needed at all. For example, the traditional convention (but it was and is only a convention) was that a woman on marriage adopted the name of her husband without any further evidence. As for enrolment of a deed poll, this is not a judicial act, and adds nothing in law to its validity or effect. It simply makes it easier to locate it. (See, generally, *O'Driscoll v Clayton* [2024] EWHC 1118 (Ch), [22]-[29].)

55. A change of name does not involve a change of legal personality. You are the same person in law after changing your name as you were before. All your rights and liabilities remain the same. If a woman marries and changes her name to that of her husband, she cannot avoid being sued for wrongs committed by her in her maiden name. Nor, if she is sued in her maiden name, can she avoid the proceedings simply by saying that she is now called something different.

56. In the present case, there is no room for doubt that the respondent was the person intended to be served with documents in this litigation, even if his name in the documents concerned was not spelt exactly as the respondent would wish. Nor does it make any difference that there is an unlimited liability company with the

same name as him (also incorporated in March 2024). That company has nothing to do with this litigation, and the applicant's intention was clearly to apply against the respondent, rather than against the company. There is accordingly nothing in the respondent's points about not being properly served or joined.

The impact of "false evidence"

57. Secondly, the respondent makes the allegation that the order was obtained by the false evidence by an officer of the applicant. But the difficulty for the respondent is that the order of 5 April 2022 has never been appealed, let alone overturned on appeal, and has never been set aside on any application for that purpose based on the alleged fraud. In these circumstances, I am not able to go behind that order. More than that, the injunction is one granted by a court of competent jurisdiction, and so, unless and until it is overturned or set aside, or at least varied in a material way, the respondent is obliged to obey it: see *Chuck v Cremer* (1846) 1 Coop t Cott 338, 342-343; *Isaacs v Robertson* [1985] AC 97, at 101-102; *M v Home Office* [1994] 1 AC 377, 423; *R v Kirby (John Martin)* [2019] 4 WLR 131, [13]; *R (Majera) v Home Secretary* [2022] AC 461, [56]. Even if it were subsequently overturned or set aside, it would still be a contempt of court to have disobeyed it in the meantime.

Judicial signature

58. Although I do not think it appears in the respondent's affidavit, I mention here for completeness the point raised in correspondence in December 2024, that the order of 2022 was invalid because not signed by the judge. I have already set out the relevant terms of CPR rule 40.2 earlier in this judgment. There is no such requirement of judicial signature, and accordingly the order was not invalid on that basis.

Was there any breach of the order?

59. Therefore, thirdly, I come to the question whether, in what the respondent did in preparing and sending the letter in January 2025 and the notice in May 2025, he breached the terms of the 2022 order. I remind myself of the material words of the order. He is restrained

> "from asserting *in any way whatsoever* any rights, interest or claims in or to the 'A' ordinary shares and preference shares which he had formerly held" (emphasis supplied)

in All Saints Retail Ltd. These are the shares that he says were unlawfully taken from him by the Icelandic banks in 2009, and then sold to the applicant in 2011.

60. The letter of 2 January 2025 asserts that

> "KBHF misappropriated and used my assets … meaning KBHF never obtained lawful title."

It also asserts that

> " … fraud prevents any transfer of ownership that would extinguish my equitable interest in the assets."

61. These are explicit statements that, because of the alleged fraud, the bank never obtained good title to the respondent's shares, and hence they still belong to him. But these are the very shares which were then sold by the bank to the applicant. The respondent is therefore indirectly asserting a beneficial interest in those shares, contrary to the terms of the injunction.

62. The notice of 9 May 2025 refers to

> "the unlawful misappropriation of those shares … using my assets without authority, consent, or lawful title. … The taint attaches at the point of misappropriation and renders the title irrecoverably defective. No downstream transaction, including the 2011 Share Purchase Agreement, can cure or sanitise the origin. The shares are criminal property in law and void in equity, incapable of conferring lawful control or benefit."

63. Once again, the respondent is making an explicit statement that his shares have been misappropriated, rendering the title "irrecoverably defective" and the 2011 share purchase agreement could not operate to transfer them further. Since the transferee under the 2011 agreement was the applicant, this is an indirect statement that the applicant has not obtained good title to those shares. It is another breach of the 2022 order.

64. However, in the case of each of the January letter and the May notice, there are also provisions stating in effect that there is no intention to breach the terms of the order. I set them out earlier. Amongst other things, the letter says:

> "This correspondence is not intended to challenge the Court's authority or assert rights over the shares referenced in the Order."

And the notice says:

> "this notice does not challenge, circumvent or seek to vary the sealed Order dated 5 April 2022. It asserts no legal or equitable claim … "

65. The question is whether the disclaimers make any difference. In my judgment they do not. Of course, the letter and the notice must be construed as a whole, and to that extent these disclaimers are just as much a part of the construction matrix as any other part of the documents. But, once the exercise of construction has been gone through, and the meaning of the words has been ascertained, then, if they otherwise amount to a breach of the terms of the order, the inclusion of the disclaimers will not save them. The court looks to the *substance* of what has been said, and not to the *form*. The declaration is an empty gesture. It is repugnant to the substance, and must be put aside.

66. As already noted above, it is not necessary that the respondent should have understood or believed that what he did was in fact a breach of the order. It is enough that he knew he was doing the acts which I have held amount to breaches of the order.

CONCLUSION

67. Accordingly, I am satisfied, to the criminal standard, that the respondent has committed contempt of court in breaching the order of 5 April 2022, by preparing and sending the letter of 2 January 2025 and the notice of 9 May 2025. When this judgment is handed down, I will adjourn the hearing to Friday 5 September 2025 to deal with consequential matters, including sentencing.

68. In the meantime, I remind the respondent that he will be entitled to appeal against the findings of contempt I have made without the need for permission, but otherwise in accordance with the procedural rules. That means that the appellant's notice will have to be lodged with the Court of Appeal (which is the court to which any appeal lies) within 21 days of the order's being made.

POSTSCRIPT

69. After I had circulated this judgment to the parties in draft, but before it was formally handed down, I received a letter from the defendant, sent to the court by email timed at 10:35 am on 31 July 2025. This letter does not seek to make any suggestion for correction of "typographical or other obvious errors or corrections of a similar nature" in the draft judgment, as envisaged by paragraph 12.87 of the Chancery Guide.

70. Instead, it seeks to raise three further matters which could have been raised by the defendant before the hearing took place, and to re-argue a fourth point – the non-joinder of the family trust – that was made in the defendant's written submissions. (This is specifically forbidden by paragraph 12,87.) It is far too late for the first three points, and the fourth is an abuse. I have accordingly ignored all of them.