Case No: PT-2022-001007

IN THE HIGH COURT OF JUSTICE
PROPERTY TRUSTS AND PROBATE LIST
CHANCERY DIVISION

7 Rolls Buildings,
London,
EC4A 1NL

Date: Tuesday, 3rd March 2026

Before:
SIR ANTHONY MANN
(Sitting as a Judge of the High Court)

- -

Between:

BP COLLINS TRUST CORPORATION LIMITED **Applicant**

- and -

MICHAEL NEWTON **Respondent**

- -

MR GEORGE WOODHEAD (instructed by **BP Collins Solicitors**) appeared for the **Applicant**

MS REBECCA HAWKSLEY (Solicitor Advocate with **Alfred James & Co Solicitors LLP)** appeared for **the Respondent**

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APPROVED JUDGMENT

SIR ANTHONY MANN:

1. This is an application to commit Mr Michael Newton for contempt of court in the form of his breach of an undertaking. The applicant is BP Collins Trust Corporation Limited (whom I will call "BPC"). Mr Collins is a former personal representative of his late father's estate who gave certain undertakings to provide information. BPC are the substitute personal representative put in place of Mr Michael Newton and his brother, Ralph, when they were removed by the court at the behest of two other brothers, as will appear. The undertaking in respect of which breach and therefore contempt is alleged was given to His Honour Judge Kramer on 23rd August 2023 in circumstances which will appear.

2. I need to set out some of the background in order to make sense of the undertaking. As I have already foreshadowed, Michael is one of four sons of Mr Teddy Newton: he is one; Ralph is another; David is a third; and Trenton is the fourth. The father died on 30th November 2019. Ralph and Michael were appointed executors. Unfortunately, they have fallen out with David and Trenton, and on 1st December 2022 the latter two applied to have Ralph and Michael removed as executors. I do not know what the details of that dispute were, but on 27th March 2023 Master Clark made an order removing Michael and Ralph as executors and appointing BPC in their place. In that order she further directed as follows in paragraph 4:

> "4. The defendant shall within 14 days from the date of service of this order …
>
> (3) render to the claimants and BPC an account of the administration of the estate.
>
> (4) deliver up all documents relating to the estate to BPC."

3. It appears that Michael and Ralph failed to comply with that order and that led to a prior contempt application in this matter. That contempt resulted in the order of

His Honour Judge Kramer of 23rd August 2023 (stamped on 24th August). He recited that he considered the application, heard counsel, and had received an admission by Ralph and Michael admitting they were guilty of contempt by failing to comply with paragraphs 4(3) and 4(4) of the order which I have just read. It also recited that the judge was satisfied beyond reasonable doubt that the defendants had been guilty of contempt of court. He went on to record an apology and to record that they had by then complied with that order.

4. Then he recorded some undertakings that the defendants and each of them gave, and one of them is the undertaking which is relied on in this case. It reads as follows:

> "(ii) They will respond within 14 days to any requests for information and documents made by BPC concerning the estate."

5. At the end of the order both Ralph and Michael (as I shall call them in this judgment without intending any disrespect) signed an acknowledgment that they understood the effect of the order, in these terms:

> "I understand the undertakings that I have given and that if I break any of my promises to the court, I may be fined, my assets seized or I may sent to prison for contempt of court [sic]."

6. A point arises as to the true construction of that order. In her final submissions in this case, but not I think foreshadowed in her skeleton argument, Ms Hawksley, who appeared for Michael in this application, took the point that a response within that undertaking could be any response as long as it was literally a response. It could be an unhelpful response. It could be an abusive response. But all it had to be was a response. Thus it would, she said, be a response for the purposes of that undertaking to say, "I do not intend to provide a response". It would be a response

to say in abusive terms "Go away. I do not propose to deal with you." That is because she says that the undertaking is to be construed literally and, being an undertaking with committal consequences, must be construed particularly strictly.

7. That is significant for the purposes of this application, not because, she submits, that there was no response within the time limit provided in the undertaking, but because she says that the responses which had been supplied belatedly amount to proper responses notwithstanding what might be thought to be manifest shortcomings. I will deal with this point of construction before going on further in this judgment. In my view, it fails. True it is that if one takes absolutely literally the word "respond", then any old response, provided it is some sort of reaction to the request, would do. Thus if Ms Hawksley were right, then a non-written response would suffice such as a telephone call simply saying "I've received your email. I'm not going to do anything about it." But that cannot have been the intention of the parties. It cannot have been the intention of the judge when he received the undertaking. It is not appropriate to construe the undertaking as literally as that. Nor, in my view, am I obliged to construe the undertaking as literally as that.

8. Mr George Woodhead, who appears for BPC in this matter has drawn to my attention in this context the case of *Navigator Equities Limited v. Deripaska* [2021] EWCA Civ 1799 at paragraph 82. That paragraph starts with the following words:

> "The following relevant general propositions of law in relation to civil contempts are well-established: …
>
> (iv) The meaning and effect of an undertaking are to be construed strictly, as with an injunction. It is appropriate to have regard to the background available to both parties at the

> time of the undertaking when construing its terms. There is a need to pay regard to the mischief sought to be prevented by the order or undertaking".

That dictum does not, in my view, require me to treat the provision in the present undertaking literally. I consider it is appropriate when construing the undertaking, and working out how far it goes, to take into account the context in which, and the purposes for which, it was given. Those purposes would be set at nought were Ms Hawksley correct. It is obvious that a response has to be an appropriate response and in my view the way of dealing with the difficulties of literalism in this matter is to construe the undertaking as being an undertaking to respond to the best of the ability of the responder, in this case Michael. That makes perfect sense and fulfils the purpose of the undertaking. Otherwise, it is devoid of all purpose.

9. That approach is supported by the decision of Master Marsh in *Coward v. Mindimaxnox LLP* [2021] EWHC 9 (Ch). In paragraph 51 he sets out some principles about construing orders which are similar to the sort of principles which apply to construing contracts. True it is that that authority deals with orders rather than undertakings or injunctions in particular, but in my view the principles set out there are appropriately guidance for what is in issue here. That justifies the implication which I consider should be made to make sense of the provision and to counter what would otherwise be the absurd position which would be brought about by Ms Hawksley being correct.

10. I can now return to the alleged breaches of the undertaking. The request made by BPC, which is said to have not been complied with in breach of the undertaking, was originally made in a letter of 8th May 2025. BPC wrote to Mr Newton explaining that concerns had been raised in relation to the estate and they needed

to consider payments received by the deceased and whether or not Michael, who on his own admission had been in charge of obtaining rent from rental properties which his father owned, had properly accounted for the rent. They said this:

> "In the circumstances, we should be grateful if you would confirm for the period 2016 to and including 30 January 2020
>
> (1) the properties for which rental income was received by you into Account No. ending 613;
>
> (2) the amount of that rental income;
>
> (3) details of any costs or other deductions from the income;
>
> (4) details and evidence of payments made to the deceased;
>
> (5) confirmation as to whether payment of rental income was made to any other account or any third party in the above period.
>
> We would be grateful if you would provide copy bank statements for the account ending 613 covering the above period."

11. I should explain that the account described in that letter is an account at Barclays Bank which apparently Michael operated in order to receive, perhaps *inter alia*, rent from his father's properties. There was no response to that – none at all – and that by itself constitutes a breach of the undertaking and therefore a contempt of court, even on Ms Hawksley's overly-strict interpretation of the undertaking.

12. Mr Newton's evidence was that he went to solicitors and saw them and thought that they had dealt with the matter and left it there, and there was therefore no further response from him. I find that hard to believe, but, in any event, there was no response and those solicitors did not respond.

13. BPC followed that up on 14th October in a letter sent by email which repeated the same request in terms, save that it did not repeat the request for bank statements

apparently. The letter went on to remind Mr Newton of the undertaking that he had given and of his acknowledgment of the undertaking that he had signed.

14. There was no immediate response to that, and it was followed up by a letter of 22nd October 2025 expressing BPC's concerns that they had not received a response and that the deadline was to provide them with the documentation on 28th October 2025. They again reminded Mr Newton of the seriousness of not complying. That led to an email from Ms Hawksley, at that point employed by a body of advisers who were not solicitors and who were therefore not authorised to conduct litigation. She explained that a full response could not be provided at the present time; that the client did not have access to the bank statements that they seek and has had to order them. I will interject at this point that it does not appear that those bank statements were ordered until possibly two weeks ago.

15. She said that they would be able to provide a full copy of the papers annotated and cross-referenced to each property shortly after receipt of the papers from the bank, but the documents would have to be considerably redacted as the bank statements contained personal transactions. It went on to explain that the undertakings were understood, but the client had not been able to address the matter earlier because there were difficulties with a previously instructed team who had failed to act on instructions. She asked for a further 14 days in which to get a "full response" to BPC. That email was dated 27th October 2025.

16. BPC responded on 30th October which considered that it was not within the gift of the parties to extend time. It made certain remarks about the last-minute nature of Mr Newton's activities in this respect and made certain comments about the undertakings that were given. So far as documents were concerned, in paragraphs

numbered 8 – 14, it resisted the provision of any redacted documents, saying that they needed to see proper documents in order to check the matter. That was responded to by a letter from Ms Hawksley on behalf of Mr Newton taking various points and indicating that the position in relation to redaction could not be changed, not least because Mrs Newton had a certain interest in the confidentiality of some of the information. There the matter seems to have largely rested, and the documents were not given up.

17. That led to the present application. In this application, issued on 12th November 2025, the application being dated 11th November 2025, committal for contempt is sought on the basis of non-response to the letter of 8th May 2025 which I have read, and the follow-up correspondence to which I have referred.

18. The matter first came on 27th January of this year, before me, as it happens,. On that occasion Ms Hawksley arrived to represent Mr Newton very much at the last minute. The matter was adjourned to give Mr Newton a chance to respond evidentially and otherwise and it was adjourned over until today's date. On that occasion BPC was added to the application and to the proceedings for the purpose of enforcing the undertakings. The order contained a provision that, for the avoidance of doubt, any information provided to BPC as personal representative would not be used save for the purpose of the proper administration of the estate and would not be disclosed to others without either the consent of Mr Newton and his wife or further order of the court.

19. Directions were made for evidence and the order provided that if Mr Michael Newton wished to provide any evidence in response to the application he should do so by 4.00 pm on 17th February 2026. In the same order Mr Newton gave a

further undertaking to this court that he would comply with the request for information and documentation that had been sought in the letter of 8th May and that that information would be provided by 4.00 pm on 17th February 2026.

20. Mr Newton's evidence and response pursuant to that further undertaking came some six and a half minutes late and therefore slightly beyond the very last minute on 17th February. He provided two witness statements. One dealt generally with the circumstances in which he found himself and contained an acceptance that he had failed to comply with the terms of the Tomlin order and his undertakings to co-operate fully with the claimants. He said:

> "I am deeply sorry for that failure and can only explain the situation to the court and ask for its forgiveness in this matter."

21. The letter went on to deal with various matters, including the family rift between him and two of his brothers, and his concern to keep personal information to himself and not to have it disseminated more widely and particularly beyond the executors. He ended that witness statement by saying:

> "In all the circumstances I would ask this honourable court to forgive my failure to comply with the undertaking I gave to the court that I would respond to any queries from the executors as I was really concerned about the security of the documents and when it was resolved I have complied fully."

He therefore averred that he had complied fully.

22. That alleged full compliance came in his second witness statement served at the same time. He set out a little more background and, from paragraphs 16 onwards in that witness statement, he set out what his response was to the requests made by the executors in their first letter.

23. Before going on, I should deal with the matter of standard of proof in this matter. It is of course common ground that a contempt has to be established, or acts said to found a contempt have to be established, beyond reasonable doubt. That is not really much of an issue in this case because the facts are obvious and Mr Newton has effectively admitted that he did not comply. This case is rather more about late compliance and mitigation than anything else, so no real point turns on the standard of proof in this case.

24. Thus far in the narrative, therefore, there is an admitted breach in relation to the provision of all the information sought. That is of itself serious. Mr Newton was a former personal representative who might be thought to have some necessary information but, more importantly, was someone who managed the properties for his father on his own evidence, and who received income from those properties for his father. The information that was sought is legitimate information for a new personal representative to have, as seems to be admitted, and it was not provided when it should have been. I do not think the reasons given are particularly good reasons and I am not at all convinced by the late reliance on the need for confidentiality of the information. That could have been dealt with in various ways, and although it was certainly referred to in the correspondence, the point was not taken further by Mr Newton by, for example, saying he was ready to provide the information if the personal representative was ready to preserve his confidentiality.

25. I consider that, if matters had not moved on as they have, this would be likely to be a case which is serious enough to justify the imposition of an immediate and non-suspended custodial sentence; that is to say, for the benefit of Mr Newton, a

sentence of imprisonment implemented today. As will appear, I do not propose to impose such a sentence. I need to consider the extent to which there is now compliance because Mr Newton says he has now complied. If he had complied fully, that would be a very material consideration as to what I should do by way of dealing with the otherwise admitted contempt. Unfortunately, it is apparent that he has not complied sufficiently. There are still very serious areas of non-compliance. They were helpfully gathered together in a schedule prepared by Ms Charlotte Braham of BPC's solicitors.

26. I will take the heads of compliance and non-compliance separately as they are dealt with in Mr Newton's witness statement seeking to deal with compliance. He deals with the matter in this way. In paragraph 16 of that witness statement he goes through the lettered requirements of BPC *seriatim*. I need to set out the detail of his response, such as it is. He starts as follows:

> "(a) The properties for which rental income was received by [me] into Account No. ending 613
>
> The tenants would pay their rent into my account so that I could see that it had been received and then periodically I would take that money out, add it to the cash that I had received and pay it to my Dad's Lloyds account. All of the properties, save the two cash ones, would be paid to my account. This was normally in the order of £8,000 per month."

The rental properties referred to are the two described previously in the witness statement, the detail of which does not matter.

27. That description is, first of all, faulty as not particularly clearly identifying which properties were allied to cash payments, but it also turned out to be false in Mr Newton's cross-examination because it turned out that since 2019 all four properties, including those originally paying in cash, were paid into the bank

account. That is simply, at best, carelessness on the part of Mr Newton and a failure to acknowledge what was really required of him.

28. Next is the question of the amount of rental income:

> "(b) The amount of the rental income
>
> I recall the balance of the money that I held when Dad died was approximately £23,000 which was paid to Meaby & Co."

I should explain that Meaby & Co. were solicitors who operated an executor's account. It is manifest, just on the face of that wording, that it does not comply with the request for information. Mr Newton was required to specify the amount of the rental income received. All he did was specify the amount of the income that he held when his father died. That is completely different and fails to account for almost all the rental income. It is a hopeless piece of non-compliance.

29. Ms Hawksley says about this request that the real complaint of BPC is founded on the fact that they were not specific enough about what they required. If they had been specific about what they required and how they wished documents to be presented (such as, for example, receipts cross-referenced to bank statements), then Mr Newton could and would have complied with that. The trouble with their request, she says, is that it is not explicit and detailed enough and therefore it is not surprising that Mr Newton did not comply with it as BPC would wish and it should not be treated as a serious breach if a breach at all.

30. This was a theme of Ms Hawksley's final submissions. She submitted that a lot of the problems with this application lay in the fact that BPC were not detailed enough and explicit enough in how they wished the information to be presented. I am afraid this submission completely misses the point. BPC's requests were

simple and straightforward. They might have required quite a lot of work, but they were ultimately simple and straightforward requests. There is nothing difficult in understanding the request for details of "the amount of the rental income". The properties in question were appropriately identified and Mr Newton, as a minimum, had to simply specify what the income was. If he wished to do so by way of cross-referencing to bank receipts, then that would no doubt be helpful, but the starting point would be to comply with the perfectly properly and understandably phrased request of BPC. There is no real attempt to answer that particular question, and it is not much better now.

31. The effect of that might be slightly mitigated if the receipt of rent into the bank account could be identified from bank statements produced. However, this will be convenient point to mention another breach of the undertaking in the form of non-production of the bank statements. Accompanying Mr Newton's second witness statement there were served bank statements covering some of the period 2016 to 2020 as requested in the letter, but in fact the statements produced covered only the last month or two of each year. The bulk of each of those years was not the subject of any of the bank statements produced at all. That was said in submissions but not in evidence to be down to a mistake and a failure to check. Such a failure to check would be a failure on the part of both Mr Newton and presumably Ms Hawksley insofar as she was supervising the activity.

32. That is a serious omission and a serious breach of the undertaking. It is submitted to be accidental, not so much on the basis of evidence but just on the basis of submissions that it was accidental. Accidental or not, it was a serious breach and in my view a culpable breach. Those documents are important documents. They

were sufficiently important for Mr Newton, through Ms Hawksley, to raise concerns about the disclosure of information from those in the correspondence and yet, when it came to producing them, he simply failed to do so. What is equally remarkable, if not more remarkable, is what happened about those bank statements subsequently. When the omission was pointed out to Ms Hawksley on or about 23rd February, Mr Newton set about getting the full set. Apparently, the full set has been obtained and, according to Ms Hawksley and her email records, the full set (or rather the missing statements, minus a couple to which I will refer) were sent by her to BPC's solicitors at 10:17 this morning; that is to say, the date of this hearing. They were available to Mr Newton and Ms Hawksley last Friday. I regard it as remarkable in the context of a committal application that the documents were not sent until 13 minutes before this hearing was scheduled to start, when they ought to have been available a long time ago and were certainly available from last Friday. Ms Hawksley blamed her professional commitments for that. I am sure she is very busy, but it is still a striking feature of this application and not at all justifiable that they were not produced earlier.

33. What is equally unfortunate is that, at least as at the last time that enquiry was made, which was shortly after the luncheon adjournment today, those bank statements had not arrived at the solicitors for BPC. I do not know as I deliver this judgment whether they have arrived or not, but they had not arrived by then. So in no way would they have been available for this hearing had it been appropriate to look at them. That is a most unsatisfactory state of affairs. It is slightly compounded by the fact that, as Ms Hawksley has said, a couple of statements are missing even from that set, but that is not as bad as the omission to provide them in the first place. So the omission to provide them in the first place was not only

very unhelpful when it might come to mitigation of head (b) in the manner that I have described, but it is also of itself a breach of the undertaking.

34. I resume the narrative by reference to the other heads of complaint. The next is this:

> "(c) Details of any costs or other deductions from the income
>
> There were none. Any payments needed were dealt with by the solicitors."

When unpacked by Mr Newton in the witness box, that turns out to be his response and, by itself, is no longer a response which can be complained of. He has remedied the original failure to respond, which was a breach of undertaking and a contempt, by responding that there were no items under this head. That is, now it is understood, a response, albeit a very late one.

35. Next is:

> "(d) Details of evidence of any payments made to the deceased
>
> Please see the bank statements provided herewith."

That is a start, it seems to me. So far as the bank statements clearly provide payments made to the father, then it would be some form of response. However, it also appears from Mr Newton's own evidence that cash payments were made to his father, and it is not necessarily apparent from those bank statements what all those cash payments were. Those statements would certainly not cover cash which never touched the bank statements in the first place for two of the properties up to the date in 2019 from which all the money went into the bank account. There is a plain breach of that part of the undertaking by reason of the non-provision of information until now and it has not in my view been fully remedied.

36. Last is this:

> "(e) Confirmation of whether any payment of rental income was made to any other account or any third party in the above period:
>
> All payments received after death went to one of three places – my joint account numbered 613, the executor's account once it was started, or Meaby & Co. account."

Again, it is immediately apparent from the terms of that response that it does not fully comply with the obligations to provide the information. The information sought covered payment from the rental income at any time in the relevant period. The information provided governs only payments after death. It is therefore not a full compliance. Mr Newton sought to amplify that in his cross-examination, and it would appear, I think on the basis of his evidence which was not always clear, that in fact there would have been no account other than those three referred to for the prior period as well. But, insofar as that is the case, it took cross-examination to extract that from him, so it may be that finally at this stage that the information has been provided, but that does not go to excuse the failure to provide the information properly until that particular moment in the cross-examination.

37. I therefore find that, to the extent specified, there has been a clear breach of the undertaking in respect of all items of information required because none of it was supplied in the time specified in the demand in May and none of it was supplied when the demand was repeated, save for bank statements in October. Of course, it is the May demand that is the crucial one for these purposes. Even now, apart from head (c) and possibly head (e), it is not clear that the information has been provided and the failure to provide bank statements is particularly serious.

38. I therefore need to consider, in the light of my finding of a serious breach of undertaking and therefore a serious contempt of court, what the appropriate sanction is. I do not consider that a financial sanction in the form of a fine is sufficient in a case such as this. This was a serious and a second contempt of court. I remind myself that Mr Newton has a track record in the sense that Judge Kramer found, and indeed had the benefit of an admission as to, a prior contempt. I do not know what that is, but it is an unfortunate background for a second contempt. Mr Newton does not seem to have learnt from his first experience that he needs to comply with court orders.

39. I have to consider the extent to which Mr Newton's breach was flagrant. Ms Hawksley was at pains to point out that Mr Newton did not demonstrate contempt for the court in the sense of disdain for the court. I would be minded to accept that but I consider that, having seen Mr Newton in the witness box being cross-examined, his approach to this matter borders on at least the reckless. I am not quite convinced that he was being deliberately obstructive, but I do not consider that he did his honest best in order to comply with his undertaking.

40. He did a three-year BTEC in estate management and, although that did not (according to him) include matters such as the collection and administration of money from property, nonetheless it demonstrates that he is not a man without a degree of intelligence. I consider that he was perfectly capable of understanding, and did understand adequately, his obligations. He probably put his head in the sand somewhat, but he failed to pursue a failure of his first solicitors to provide the information and allowed matters to stand without the provision of the information in solicitor's correspondence.

41. It ought to have been apparent to him that his attempts to comply in his second witness statement were no such thing, and one would be tempted to regard them as being deliberately guarded, but that was not put to him by Mr Woodhead and I will not go quite as far as establishing that he was being deliberately misleading because I do not consider that that was established beyond a reasonable doubt. However, I do consider that he is seriously culpable to a degree which would correspond in my view to recklessness.

42. In all those circumstances, I consider that a prison sentence is an appropriate sanction in this case, but I do not consider that it needs to be an unconditional and immediately imposed prison sentence. Mr Woodhead, so far as it falls to him to make proposals for sentencing, did not press for an immediate custodial sentence, but he did propose the consideration of a suspended prison sentence. Apart from anything else, he acknowledged that his clients' interests were not necessarily best served by having Mr Newton in prison. I accept that and I take that into account.

43. Mr Woodhead's figure, following his proposed term, was three months. I confess that, had he not proposed a three-month suspended sentence, I might have been minded to provide for a longer suspended sentence, but three months would be not inappropriate and I do not think it would be fair on Mr Newton to impose a longer prison sentence than that which his adversary considers would be appropriate.

44. In all the circumstances I consider that the appropriate sanction for Mr Newton's serious breaches of undertaking (and, I would add, his failure to comply with the renewed undertaking given to me at the first hearing) would be to impose a prison sentence of three months suspended for two years on condition that Mr Newton

provide the missing information within 21 days and that he continues to comply within the suspension period with his undertaking to provide information reasonably requested by BPC. That therefore will be my order, and I hope that Mr Newton now realises the seriousness of his situation and the need to comply seriously, conscientiously and thoroughly with his obligations.
