Neutral Citation Number: [2022] EWHC 1436 (Ch)

Case No: BL-2020-001419

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: 13/06/2022

Before :

MR JUSTICE ADAM JOHNSON

- -

Between :

(1) JONATHAN DAVID ROWLAND
(2) DAVID JOHN ROWLAND **Claimants**

- and –

KEVIN GERALD STANFORD

Defendant

- -
- -

Thomas Grant QC and Andrew McLeod (instructed by **Forsters LLP**) for the **Claimants**
Kevin Gerald Stanford appeared in person

Hearing dates: 9 June 2022

- -

Approved Judgment

The date and time for hand-down is deemed to be 10.30am on Monday 13 June 2022.

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MR JUSTICE ADAM JOHNSON

Mr Justice Adam Johnson:

Introduction and Background

1. The Claimants seek findings of contempt of Court against the Defendant Mr Stanford. The Claimants' application issued on 8 February 2022 (the "*Contempt Application*") relies on four Counts of alleged contempt, each arising from what are said to have been deliberate breaches of the Court's Order dated 21 April 2021 (the "*Order*").

2. The background to the Order is explained in some detail in my earlier Judgment of 21 April 2021, reported at [2021] EWHC 988 (Ch). I will not repeat all the detail, but in summary the underlying dispute between the Claimants and Mr Stanford arises because of Mr Stanford having come into possession of data taken from an email account belonging to the First Claimant, Mr Jonathan Rowland. That email data – effectively a copy of the contents of Mr Rowland's email account as it stood on 21 June 2013 – was originally obtained by a former business associate of Jonathan Rowland named Michael Wright. This cache of electronic data has been referred to in this action and elsewhere as the "*Archive*". The Archive is said to have been obtained illegitimately by Mr Wright, without authority from Jonathan Rowland, in 2013. The Claimants came to find out about Mr Wright having it only in 2016, in the course of some English litigation against Mr Wright. Mr Wright made an Affidavit in the litigation in July 2016 saying that by then he did not have a copy of the Archive, because his laptop had been stolen, and also saying that he had not shown it to, or provided it to, anybody else.

3. Later, however, in 2017, the Claimants came to suspect it had found its way to Mr Stanford. Mr Stanford is a former businessman and retail entrepreneur who had successes with the Karen Millen brand and the All Saints brand.

4. Mr Stanford had his own long-running dispute with the Claimants at the time, about their alleged involvement in the loss of assets held by him with Kaupthing Bank in Luxembourg. In the course of that dispute, in late 2017, Mr Stanford sent emails which referred to material which appeared to have come from the Archive. One was an email to Amanda Staveley of PCP Capital Partners dated 26 October 2017. A second was an email to a Mr Al Mubarak, a representative of the Abu-Dhabi sovereign wealth fund, dated 4 November 2017.

5. The Claimants wished to know more about how that came to be and made inquiries. Initially, in correspondence in late 2017, Mr Stanford said that a package containing hard copy documents had been left by an anonymous source at his home. Much later, however, in early 2020, in a draft criminal complaint to the SFO (the "*Draft Complaint*") prepared as part of his still continuing dispute with the Claimants, Mr Stanford gave a different account and said he had been given a file of documents in the form of a hard drive, "*by a former employee of the Rowland family*", in April 2015. He later affirmed this same account in his first witness statement in the present action, where at para. 105 he said "*In April 2015, I received a hard drive ('the Archive') from a former employee of the Rowland family …*".

6. The Draft Complaint, which was sent by Mr Stanford to a number of third parties, itself referred to materials said to have been taken from *the Archive*, and also referred to additional materials from the Archive having been provided to a political journalist, Isabel Oakeshott.

7. Against that background, the Claimants made an application for Norwich Pharmacal relief, seeking information from Mr Stanford about how, precisely, he had come across the Archive and what use he had sought to make of it. It was that application which resulted in my Judgment, already referred to. Shortly before the hearing of the application, in February 2021, Mr Stanford gave a further account in a letter as to how he came into possession of the Archive. He said as follows (the reference to the Dower House is a reference to Mr Stanford's home):

> "*My former driver, Colin Hayward picked up Michael Wright from 31 Morden Road, Blackheath on 10 October 2015 at 3 pm and drove him to the Dower House (Exhibit 1). Later that day Michael Wright granted my wife (Andrea Stanford) and I access to his laptop which contained the Archive. Michael Wright stayed at our home that Saturday night and on the following day, Colin Hayward went to the Tunbridge Wells branch of PC World to buy a laptop to store a copy of the Archive. My IT consultant, Gavin Vickery then came to the house to copy the Archive on to the new Laptop. On Monday (12 October) Colin Hayward drove Michael Wright to Heathrow Airport*."

8. The hearing of the Claimants' application was held remotely on 23 February 2021. Mr Stanford attended and represented himself. He served three Witness Statements, and provided other documents to the Court, which showed both conviction in his position and an impressively detailed knowledge of the background to his dispute with the Claimants.

9. The draft Order as sought by the Claimants at that stage was the subject of careful examination at the hearing.

10. One particular topic covered was the possibility of Mr Stanford being entitled to invoke the privilege against self-incrimination. After the hearing, this topic was addressed in a note provided on Mr Stanford's behalf by Mr John McDonnell QC. Mr McDonnell had earlier acted for Mr Stanford on a paid basis in the action, but provided his note on a *pro bono* basis. In his evidence for the hearing, Mr Stanford had also referred to receiving legal assistance in connection with related matters from Bindmans, solicitors.

11. My Judgment was handed down at a remote hearing on 21 April 2021. I granted the Claimants the relief they sought, and in consequence made the Order. Mr Stanford was again in attendance at that hearing. The terms of the Order as eventually made were again the subject of careful review. Mr McCleod, junior counsel for the Claimants, specifically drew attention to the terms of the proposed penal notice and explained its effect.

12. In an exchange dealing with costs, Mr Stanford made certain remarks which foreshadowed later events. In addressing a question from the Court about the time for payment, Mr Stanford said, "*I do not accept your contract, Adam*"; and shortly after he said, "*I do not accept your jurisdiction*".

13. At the conclusion of the hearing, Mr Stanford was reminded of his entitlement to seek permission to appeal, but indicated he did not wish to make any application for permission to appeal.

14. I will set out the relevant provisions of the Order verbatim below. For now it is sufficient to note that the Order has three main provisions. These are:

    i) Paragraph 1: an Order requiring Mr Stanford to permit the Claimants' solicitors to take an image of the Archive, as held by Mr Stanford. Paragraph 1 was to be complied with by 4pm on 5 May 2021.

    ii) Paragraph 2: an Order requiring Mr Stanford to provide copies of correspondence or communications passing between him and (a) the supplier of the Archive (who he now said was Mr Wright), and (b) third parties in relation to the Archive. Paragraph 2 was to be complied with by 4pm on 19 May 2021.

    iii) Paragraph 3: an Order requiring the provision of information on Affidavit as to (a) how Mr Stanford came into possession of the Archive and who had supplied it to him, and (b) his communications with third parties in connection with the Archive. Paragraph 3 was also to be complied with by 4pm on 19 May 2021. It was subject to a proviso, entitling Mr Stanford to refuse to provide the information sought if it was likely to incriminate him.

15. On this latter point, I should mention that in response to questions from the Court, Mr Stanford indicated at the hearing on 21 April 2021 that he had access to persons who could assist him in putting together an Affidavit and in determining whether to invoke the privilege against self-incrimination.

16. Against that brief background, the four counts of alleged contempt relied on in the Contempt Application are in summary that:

    i) Count 1: Mr Stanford failed by 4pm on 5 May 2021 to permit the imaging required by para. 1 of the Order.

    ii) Count 2: Mr Stanford failed by 4pm on 19 May 2021 to provide the documents required by para. 2 of the Order.

    iii) Count 3: Mr Stanford failed by 4pm on 19 May 2021 to provide an Affidavit containing full and accurate details of the matters required under para. 3 of the Order.

    iv) Count 4: Mr Stanford wrongly sought to invoke the privilege against self-incrimination, under the proviso to para. 3 of the Order.

The Legal Principles

17. The core principles are well known. The main elements of civil contempt were explained as follows by Christopher Clarke J in Masri v. Consolidated Contractors International Company SAL [2011] EWHC 1024 (Comm) at [150]:

> "*In order to establish that someone is in contempt it is necessary to show that (i) that he 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: Marketmaker Technology (Beijing) Co Ltd v*

> *Obair Group International Corporation & Ors [2009] EWHC 1445 (QB).*"

18. The burden of proof is the criminal standard of proof "*beyond reasonable doubt*". In JSC Mezhdunarodniy Promyshelnniy Bank v. Pugachev [2016] EWHC 192 (Ch) at [41], Rose J (as she then was) gave the following guidance:

> "*i) The burden of proving the contempt that it alleges lies on the Applicant. Insofar as the Respondent raises a positive defence, he carries an evidential burden which he must discharge before the burden is returned to the Applicant.*
>
> *ii) The criminal standard of proof applies, so that the Applicant's case must be proved beyond reasonable doubt – or so that the court is sure. In case the meaning of this formulation were unclear, Phipson on Evidence (17th edn, 2009 at para 6.51) cites the Privy Council in Walters v R [1969] 2 AC 26 as indicating that '[a] reasonable doubt is that quality or kind of doubt which when you are dealing with matters of importance in your own affairs you allow to influence you one way or another'.*
>
> *iii) The court needs to exercise care when it is asked to draw inferences in order to prove contempt. Circumstantial evidence can be relied on to establish guilt. It is however important to examine the evidence with care to see whether it reveals any other circumstances which are or may be of sufficient reliability and strength to weaken or destroy the Applicant's case. If, after considering the evidence, the court concludes that there is more than one reasonable inference to be drawn and at least one of them is inconsistent with a finding of contempt, the claimants fail. Where a contempt application is brought on the basis of almost entirely secondary evidence, the court should be particularly careful to ensure that any conclusion that a respondent is guilty is based upon cogent and reliable evidence from which a single inference of guilt, and only that inference, can be drawn.*"

Further Events

19. Before moving onto the substance, it is convenient to note a number of other points in the chronology, after the making of the Order on 21 April 2021.

20. According to Mr Shacklady's evidence in his Second Affidavit, the Claimants' solicitors provided Mr Stanford with a sealed copy of the Order by email on 23 April 2021. This was sent to an email address known to be used by Mr Stanford.

21. The Claimants' solicitors, Forsters, then made efforts to effect personal service of the Order on Mr Stanford during late April and early May 2021, including by means of a

process server attending Mr Stanford's home in Kent. Such efforts were unsuccessful, however.

22. During the same period, the Claimants' solicitors also made efforts to arrange imaging of the Archive, required under para. 1 of the Order to be carried out by 4pm on 5 May 2021. What was proposed was that the Claimants' solicitors attend with the assistance of a forensic data expert to assist with the imaging process. Again, these efforts were not successful.

23. On 4 May 2021, Mr Stanford sent Mr Shacklady a letter both by email and registered post, referring to a USB drive said to contain a copy of the Archive. The email was sent from the email address to which Forsters had sent the sealed copy of the Order on 23 April 2021. Mr Shacklady responded by email on the same day to say that provision of a memory stick would not satisfy the requirements of para. 1 of the Order.

24. The hard copy letter was received on 5 May 2021 and included the USB drive. This was examined by Forsters' IT Department but they confirmed it was empty. The Claimants have now produced a report from Mr Michael Fanshawe of Quantuma Advisory Limited, a forensic data specialist, who has confirmed that the drive contains no meaningful data.

25. On the same day, 5 May 2021, Mr Stanford sent to the Claimants' solicitors and to the Court a document entitled "*Affidavit of Kevin Gerald Stanford".* It is not, in fact, an Affidavit, not having been sworn before any person authorised to administer an oath. I will therefore refer it this as the "*5 May 2021 Statement*".

26. The 5 May 2021 Statement is broadly in two parts. The first part is a series of assertions by Mr Stanford. These are as follows, at paragraphs 2-6:

> "*BACKGROUND*
>
> *2. There is now shown to me a sealed copy of what appears to be an order of the High Court of Justice of England and Wales dated 21 April 2021 before Mr Justice Adam Johnson in the matter of claim number BL-2020-01419 (the 'Order').*
>
> *3. It is apparent to me that the Order was obtained by David Rowland ('DR') and Jonathan Rowland ('JR') against a KEVIN GERALD STANFORD pursuant to a 'Norwich Pharmacal' application submitted to the High Court of England and Wales by DR and JR on or around 3 September 2020 (the 'Application').*
>
> *UNCLEAN HANDS*
>
> *4. It is apparent to me that the [sic] DR and JR made the application with unclean hands, having stolen assets of mine; and that the Order which is based on the Application is thereby unlawful and void ab initio.*
>
> *ABUSE OF PROCESS*

> *5. It is apparent to me that the Application is an abuse of court process by DR and JR; and that this abuse of process was necessary for DR and JR to avoid questioning under oath regarding their criminal conduct; and that the Order which is based upon the Application is thereby unlawful and null and void ab initio.*
>
> *FRAUD*
>
> *6. It is apparent to me that the words on the first page of the Order (the 'Text') are written in a foreign sign language, the grammar and syntax of which are not of English (the 'Fraud'); and that the Order is unlawful and null and void ab initio because of the Fraud; and that I cannot understand the Text or be obligated by it.*"

27. It is clear from para. 2 of the 5 May 2021 Statement that Mr Stanford by this stage was in possession of a copy of the Order.

28. The second part of the 5 May 2021 Statement was then an invitation by Mr Stanford to respond, failing which, the Statement provides, the recipients of the Statement will thereafter be estopped from denying the truth of the assertions made at paras 2-6:

> "*A sufficient answer to the Affidavit shall consist of an affidavit made by the Respondents attesting that the facts stated in the Affidavit to be true or apparently true to the Declarant [i.e., Mr Stanford] (the 'Facts') are not true on a point by point basis and underwritten by the equivalent weight of oath as that of the Declarant (a 'Sufficient Answer').*
>
> *The Declarant hereby grants the Respondents three (3) days from the date of delivery of the Affidavit in which to make a Sufficient Answer.*
>
> *If the Respondents fail to provide a Sufficient Answer to the Declarant then they shall by tacit acquiescence convey to the Declarant their agreement that the Facts are true and that the Respondents shall be estopped from disputing the Facts thereafter.*"

29. None of the recipients of the 5 May 2021 Statement responded to it.

30. At roughly the same time, and having conducted an initial review of the USB drive received on 5 May 2021, Mr Shacklady emailed Mr Stanford on 6 May, indicating he was now in contempt, but urging him to make arrangements for the imaging exercise required under para. 1 of the Order.

31. On 9 May, Mr Shacklady received in response two emails from a Mr Andrew Jackman, who asserted he had been appointed by Mr Stanford as his "*private administrative agent*" under a letter of 7 May, and was authorised to communicate on Mr Stanford's behalf. A document was provided dated 7 May 2021 headed "*Letter of General*

Authority", signed by Mr Stanford, under which he appointed Mr Jackman as his agent, amongst other things, "*to deal with correspondence relating to any matter on my behalf …*".

32. Mr Jackman's emails (sent from different email addresses but in identical form) contained a large number of PST and other files by hyperlink. Mr Jackman stated:

> *"[Mr Stanford] has asked me to provide you with a link to the entire Archive referred to under paragraph 1 of the Order herewith [hyperlink]*
>
> *It appears to Mr Stanford that his provision of the Archive discharges any and all obligations under Paragraph 1 of the Order …*".

33. In his Third Affidavit in these proceedings, Mr Shacklady has given an explanation of the materials accessible via the hyperlink provided on 9 May, and via a further hyperlink provided on 3 June 2021. I will come back to this evidence below.

34. 19 May 2021 was the date for compliance with paras 2 and 3 of the Order. On 19 May, the Claimants' solicitors received three further documents from Mr Stanford.

35. The first was entitled "*Affidavit of Kevin Gerald Stanford*". Again, it is not in fact an Affidavit, not having been sworn before any person qualified to administer an oath, and not being in the correct form. I will therefore refer to it as the "*18 May 2021 Statement*".

36. Paras 2-6 of this document appear to be addressing the matters required to be addressed under para. 3 of the Order. Thus, para. 2 refers to the Order; para. refers to the Order being "*null and void*", but then goes on to say that the 18 May 2021 Statement is nonetheless being provided "*voluntarily, out of good will*". Paras 4-6 then provide as follows:

> "*4. I obtained the Archive after my former driver, Colin Hayward, picked up Michael Wright from 31 Morden Road, Blackheath on 10 October 2015 at around 3pm and drove him to my home. Later that day Michael Wright granted by wife and I access to his laptop which contained the Archive. Michael Wright stayed at our home that night and on the following day Colin Hayward went to the Tunbridge Wells branch of PC World to buy a laptop to store a copy of the Archive. My technology consultant, Gavin Vickery, then came to our house to copy the Archive on to the new Laptop. On 12 October 2015, Colin Hayward drove Michael Wright to Heathrow Airport.*
>
> *5. The name of the Supplier is Michael Wright who is, to the best of my knowledge, a former employee of the Rowland Family and acted alone in supplying the Archive.*
>
> *6. It is apparent to me that all correspondence or communications between myself and Michael Wright and details*

> *of Third Party Recipient copies of the Archive, in whole or in part, are likely to lead to criminal liability for KEVIN GERALD STANFORD."*

37. I will come back to paras 2-6 further below, in addressing the question whether paras 2 and 3 of the Order have been complied with.

38. Meanwhile, the other two documents received by Forsters on 19 May 2021 were as follows:

    i) A letter dated 18 May 2021 addressed to Mr Head, the partner at the Claimants' solicitors, which referred to Mr Stanford appointing Mr Head as Mr Stanford's "*private fiduciary trustee*", and also referenced the Order "*as amended*".

    ii) Finally, enclosed with the letter to Mr Head was a copy of the Order signed by Mr Stanford on the first page and on the back of every page, but with most of the printed text of the Order struck through. This document was presumably intended to be the amended Order referenced in the letter to Mr Head.

39. On 28 May 2021, Mr Stanford sent an email to the email address Adam.Johnson@hsf.com (the email address used by the present writer while formerly a partner at Herbert Smith Freehills LLP). The email said:

> "*Dear Adam*
>
> *Thank you for agreeing that your order dated 21 May 2021 regarding the Norwich Pharmacal Application made by David John Rowland and Jonathan David Rowland (BL-2020-001419) is null and void.*
>
> *As your judgment is damaging, I ask you to kindly withdraw it from the public domain.*
>
> *As David John Rowland and Jonathan David Rowland and their solicitors, Andrew head and Bryan Shacklady have agreed that the Norwich Pharmacal Application [BL-2020-001419] was an abuse of process I trust they have no objections.*
>
> *Kind regards*
>
> *Kevin Stanford*"

40. On 18 June 2021, in light of these developments, the Claimants' solicitors sent a letter to Mr Stanford setting out what they said were breaches of the Order, and, while reserving the Claimants' rights, offered Mr Stanford a further opportunity to comply:

    i) He was offered a range of dates between 24 June and 1 July for completion of the imaging exercise.

    ii) He was invited to provide any correspondence and communications required by para. 2 of the Order by 25 June.

iii) He was invited to provide the Affidavit required under para. 3 of the Order by 29 June.

41. On 19 June 2021 Mr Jackman responded to say that Mr Stanford was on holiday but would endeavour to reply by 2 July. After a further letter from Forsters on 22 June, however, Mr Stanford responded on 23 June. In his letter he made the assertion that the Order was "*null and void*" and that the Claimants were "*estopped from claiming otherwise*". He went on to say:

> "*If I receive any further threats of committal proceedings or any application for committal proceedings against my person then, in the absence of the affidavit requested above, such shall be construed as fraud and harassment of the grossest kind and I can see no reason why such actions should not render you to liable [sic.] for bills of damages for distress and the loss of your personal licences to practice law for cause*."

42. On 7 July 2021 in light of these events, the Claimants made an application by letter, supported by the 7th Witness Statement of Mr Shacklady, for an order retrospectively dispensing with personal service of the Order. That application was granted by the Court on 21 July 2021. In making the Order on 21 July I said I was satisfied on the basis of Mr Shacklady's evidence that Mr Stanford was aware of the Order. Mr Shacklady at para, 26 of his 7th Witness Statement included reference to Mr Stanford's 5 May 2021 Statement (above at [26]-[28]), in which at para. 2 Mr Stanford had referred expressly to having a sealed copy of the Order.

43. On 15 December 2021, the Claimants' solicitors wrote again to Mr Stanford, and while reserving the Claimants' rights, again offered him an opportunity to take steps in response to the Order:

i) Dates were proposed in January 2022 for the imaging process.

ii) Mr Stanford was invited by 22 December 2021 to provide correspondence and communications in accordance with para. 2 of the Order.

iii) Mr Stanford was invited by the same date, 22 December 2021, to provide an Affidavit in accordance with para. 3 of the Order.

44. On 22 December 2021, Mr Jackman emailed the Claimants' solicitors enclosing a letter from Mr Stanford. Mr Stanford said he regarded the matter as "*closed as I have an unrebutted affidavit dated 5 May 2021 [what I have referred to as the 5 May Statement] … by which, after private due process, the Parties all agreed that the 21 April Order is null and void, and which stands as truth unless rebutted*". By "*the Parties*" Mr Stanford meant the Claimants, their solicitors and the Court.

45. Mr Stanford went on to say that in the absence of any "*Rebutting Affidavit*", then he would assume there was agreement that the Claimants or their solicitors were making fraudulent representations, and he said:

> " *… such actions would appear to me to be worthy of having you struck off from professional practice and I request that you*

> *immediately provide me with both of your SRA numbers and the details of Forsters LLP's indemnity insurers …*
>
> *Further, I hereby put you on notice that if you choose to continue your course of conduct of harassment then I will hold you and your clients jointly and severally liable for damages of £50,000 and if any committal proceedings be issued against me then I will hold you and your clients jointly and severally liable for damages of £500,000*".

46. In light of these exchanges, the Claimants issued the Contempt Application. A copy was provided by email to Mr Stanford on 11 February 2022, under cover of a letter from Forsters. It was sent again to the email address known to be used by Mr Stanford. Amongst other matters that letter encouraged Mr Stanford to obtain legal advice. Para. 3 of the letter said:

> "*The contents of this letter and its enclosures are extremely serious and require your immediate attention. We strongly recommend that you read this letter and its enclosures carefully and seek legal advice in relation to the Application as a matter of urgency. Legal aid may be available for this purpose.*"

47. In an email in response sent on 18 February 2022, Mr Jackman said on behalf of Mr Stanford:

> *"… whereas Mr Stanford, regardless of any previous legal assistance he may have availed himself of over a year ago, does not have any legal representation currently, neither can he afford such representation, nor is he able to accept the benefit of legal aid."*

48. In an email dated 6 March 2022 to Mr Shacklady, Mr Jackman said as follows:

> "*Please can you provide without delay all details of insurers and policy numbers related to Forsters LLP (the 'Firm') both as a Firm and for Brian Shacklady and Andrew Head as partners and including without exception your professional indemnity insurance*".

49. On 9 March 2022, Mr Heselden, Forsters' head of Risk and Compliance, responded to say that Forsters saw no basis on which Mr Jackman or Mr Stanford was entitled to that information.

50. On 14 March 2022, in light of ongoing efforts to effect personal service of the Contempt Application which had failed, Leech J made an Order permitting service of the Contempt Application by an alternative method – i.e., by sending a copy by email to the email address known to be used by Mr Stanford (the "*Leech J Order*"). The Contempt Application, although it had earlier been sent by email, was sent again to Mr Stanford and to Mr Jackman on 17 March 2022, in compliance with the Leech J Order. Mr Shacklady's evidence in his 11th Witness Statement is that he received confirmation

that Mr Jackman had read his email and accessed and downloaded the Contempt Application within 30 minutes of Mr Shacklady sending them.

51. The Leech J Order required any evidence from Mr Stanford to be served by 31 March, but that did not happen. Nothing was received until 30 May 2022, shortly before the hearing of the Contempt Application, when Mr Stanford provided a further document, this time entitled "*Affidavit of Kevin-Gerald: Stanford*". I will refer to this as the "*30 May 2022 Statement*". In it, Mr Stanford refers to himself as "*Kevin-Gerald, a member of the Stanford family and beneficiary of the KEVIN GERALD STANFORD cestui que vie trust*". At para. 4 Mr Stanford refers to the Order, and then at para. 5 says as follows:

> "*There is now shown to me a copy of an unrebutted affidavit (the 'Voiding Affidavit'), to which due process was accorded to all parties who are in default of answer thereto, evidencing an agreement that the Order is unlawful, null and void. It therefore appears to me that any proceedings founded upon the Order are also unlawful, null and void ab initio and cannot obligate the Defendant to perform as the Order demands or lead to a breach of the Order by the Defendant, whether deliberately or unintentionally. A copy of the Voiding Affidavit is attached to this Affidavit as Exhibit KG01*."

52. Exhibit KG01 is in fact a copy of the 5 May 2021 Statement, and so the point being made in the 30 May 2022 Statement is that, the 5 May 2021 Statement remaining "*unrebutted*", the consequence is to render to Order "*null and void ab initio*". This then provides a platform for the further point then made at para. 6 of the 30 May 2022 Statement, which is that:

> "*As a result of my belief in the facts expressed in paragraph [5] above, I have seen no evidence that the Defendant could have deliberately breached the Order or any part thereof and I believe that no such evidence exists*."

53. What Mr Stanford is saying here is that there can be no evidence of breach, because as far as he is concerned, there is no existing order which can be breached.

54. The 30 May 2022 Statement nonetheless goes on to provide as follows at paras 7 and 8:

> "*7. Further, notwithstanding paragraph 5 and 6 above, I believe I have done all that was possible to assist the Defendant in assisting the Claimants, voluntarily and out of goodwill, and it appears to me that the Defendant, while not obligated to do so, has fulfilled the spirit of the Order by:*
>
> *a. providing a copy of available data sought by the Claimants under paragraphs 1 and 2 of the Order (Count 1 and Count 2); and*

> *b. providing information in an affidavit as sought by the Claimants under paragraph 3 of the Order (Count 3 and Count 4).*
>
> *8. I am only aware of 4 alleged counts for of (sic.) contempt and believe that no other grounds exist. I have seen no proof of any contempt of court by the Defendant and I believe that none exists; notwithstanding the aforestated it is my intention to assist the Court and the Claimants wherever possible out of goodwill and should any contempt be proven then I am willing to assist the Defendant to purge the same, though it appears impossible for me to do anything more than that which I have already done in this regard*."

55. In an email to Mr Jackman and Mr Stanford sent on 31 May 2022, Mr Shacklady reiterated that Mr Stanford was entitled to apply for legal aid for the purposes of obtaining advice in connection with the Contempt Application. He also indicated that the Court would not consider Mr Stanford's 30 May Statement unless it was formally deployed, i.e. unless Mr Stanford indicated he wished it to be deployed in open Court.

56. In response to the 30 May 2022 Statement, Mr Shacklady made his Third Affidavit on 7 June 2022.

57. On the same day, 7 June 2022, Mr Stanford provided a document entitled "*Private Judicial Notice*". In this he said he would be making a "*special and limited appearance*" at the forthcoming hearing, "*as beneficiary of the KEVIN GERALD STANFORD cestui que vie trust*".

58. On 8 June 2022, Mr Jackman sent an email to the Court specifically asking the Court to read and consider the 30 May 2022 Statement, "*before and at the hearing tomorrow*".

59. Prior to the hearing, Forsters were in contact with Mr Stanford by text message, to provide details of where the hearing was to take place. In response to one message, Mr Stanford replied and said:

> "*It's Adam again mate!!! Can't wait x.*"

60. This was obviously not intended for Forsters, because Mr Stanford then sent a further text saying:

> "*Apologies I wish to recall that last text which was sent in error*."

The hearing

61. At the hearing the Claimants appeared by Mr Thomas Grant QC and Mr Andrew McLeod of counsel. The Claimants relied on the evidence of Mr Shacklady – principally his Second and Third Affidavits – and Mr Shacklady was made available for cross-examination. Mr Stanford had no questions for him. He was questioned briefly by the Court about his Third Affidavit, and the contents of the hyperlinks provided by Mr Jackman.

62. At the hearing Mr Stanford represented himself, although I permitted him to have assistance from Mr Jackman who was also in Court. At the commencement of the hearing, Mr Stanford handed up to the Court two documents: (i) a copy of his birth certificate, with the words "*Adverse Claim*" marked on the front and other markings and additions; and (ii) a document headed, "*First Will and Testament of the Grantor*".

63. Mr Stanford was reminded both of his right to legal advice and entitlement to Legal Aid, but he indicated he did not require either. He was also reminded of his right to remain silent. As to this, Mr Stanford determined not to offer himself for cross-examination. He did however choose to make a short statement to the Court. In doing so Mr Stanford referred to himself as "*Kevin-Gerald beneficiary of the Defendant*". This seems to echo the wording of the 30 May 2022 Statement, in which Mr Stanford referred to the "*KEVIN GERALD STANFORD cestui que vie trust",* and in which he referred to "*the Defendant*" in the third person. At certain other points during the hearing Mr Stanford suggested he (i.e., the person standing in Court) was not in fact the Defendant. At any rate, as far as his short address to the Court was concerned, Mr Stanford effectively referred back to his 30 May 2022 Statement (which I have described in detail above), and said he had nothing of substance to add to it.

64. After the hearing, Mr Stanford provided a document entitled, "*Notice of Clarification*" in which he reiterated his reliance on the 30 May 2022 Statement, and in particular drew attention to para. 8 of that Affidavit and said it was "*my intention to assist the Defendant in any way I can to purge any contempt should it is [sic] proven, though I have seen no such evidence that it has been proven*".

Liability: Discussion and Conclusions

65. It is convenient to address the liability issue by reference to the following questions:

    i) Did Mr Stanford have knowledge of the Order?

    ii) Did Mr Stanford act, or fail to act, in a manner which involved a breach of the order?

    iii) Did Mr Stanford know of the facts which made his conduct a breach?

Did Mr Stanford have knowledge of the Order?

66. I am satisfied beyond any reasonable doubt that Mr Stanford was on notice of the terms of the Order, for the following reasons:

    i) Mr Stanford attended the hearing on 21 April 2021 and was taken through the terms of what became the Order in some detail.

    ii) On 23 April 2021, he was sent by email – to his known email address – a sealed copy of the Order.

    iii) In his 5 May 2021 Statement (above at [26]) he referred expressly to having a sealed copy of the Order.

    iv) Among the documents he sent to Forsters on 19 May (above at [38(ii)]) was a copy of the Order, struck through in the manner I have described.

67. In the circumstances I am entirely satisfied that the Claimants have proved knowledge of the order to the requisite standard.

Did Mr Stanford act, or fail to act, in a manner which involved a breach of the order?

Count 1

68. Count 1 alleges breach of para. 1 of the Order. Para. 1 of the Order was in these terms:

> "*By 4pm on 5 May 2021, the Defendant shall permit the Claimants' solicitors to take an image of (i) the documents and all other data contained upon the hard drive received by him in April 2015 (being the hard drive referred to in paragraph 34 of the draft complaint which he sent to the Claimants on or about 20 April 2020), such hard drive containing the Archive (ii) the documents and all other data transferred on or about 11 October 2015 from a laptop in the possession or control of Mr Michael Wright to a laptop acquired by or on behalf of the Defendant (being the laptop referred to in the letter dated 17 February 2021 from the Defendant to the Claimants' solicitors); and (iii) each and every copy and every partial copy of the Archive stored on any device in the Defendant's power, possession or control or within any cloud repository (including, without limitation, Google Drive) to which the Defendant has access*."

69. I am satisfied beyond reasonable doubt that Mr Stanford failed to act in the manner required by para. 1 of the Order.

70. Para. 1 of the Order specifically required Mr Stanford to permit an imaging exercise to be conducted by the Claimants' solicitors. The specific importance of the imaging process was explained by the Claimants in the Skeleton Argument for the hearing of their Norwich Pharmacal application. It was to allow them to "*be able to identify (to the extent possible) the process by which the Archive was created and then transposed from [Jonathan Rowland's] Email Account through the unidentified wrongdoer to Mr Stanford*." Its purpose was thus also to allow, as far as possible, a complete and reliable record of the Archive to be obtained, free from any possible interference or modification by Mr Stanford.

71. The required imaging exercise has not happened, on any view. All that happened by 5 May 2021 was that Mr Stanford provided a USB drive. This in any event contained no meaningful data. That, in and of itself, was a breach of para. 1 of the Order and obviously so, as Mr Shacklady had indicated would be the case in his email to Mr Stanford of 4 May 2021 (above at [23]).

72. In his 30 May 2022 Statement, Mr Stanford referred at para. 7 (see above at [54]) to having provided *"a copy of available data*". This is presumably a reference to the materials supplied by Mr Jackman, via the hyperlinks sent on 9 May and 3 June 2021.

73. Provision of the materials supplied by hyperlink did not satisfy the requirements of para. 1 of the Order, because that did not involve *the Claimants' solicitors* taking any image. Instead it involved a provision of materials by Mr Jackman. That is not what

the Order required. Indeed, I did not understand Mr Stanford to suggest that there was compliance. In para. 7 of his 30 May Statement, he said only that he had "*fulfilled the spirit of the Order*." That seems to me to involve an acknowledgement that he had not, in fact, undertaken the steps the required by the Order, but instead had undertaken substitute steps.

74. Although not directly relevant to the question of breach, the practical importance of the imaging exercise is illustrated by the account given in Mr Shacklady's Third Affidavit of later events concerning the materials provided by Mr Jackman. On 2 June 2021, almost a month after the first hyperlink was sent on 9 may, Mr Jackman wrote to Mr Shacklady to say he would provide a new hyperlink the following day, because he had identified "*an issue with the Archive sharing due to a file size issue*", and he provided a new hyperlink to a Google Drive folder the following day, 3 June 2021. Then on 9 June 2021, Mr Jackman was forced to email again, to say that one of the folders accessible via the original hyperlink (sent on 9 May) contained Mr Stanford's private emails and had been included by mistake. That email followed repeated requests by Mr Shacklady that Mr Stanford and Mr Jackman provide a description of the contents of each file supplied via the original hyperlink and identify the folders they asserted contained the Archive. That information has never been provided. In the circumstances, the Claimants can have no confidence that a complete and reliable record of the Archive has in fact been provided to them. That is just why the Order provided for an imaging exercise.

75. In all these circumstances, it is clear beyond any reasonable doubt that Mr Stanford has failed to act in the manner required by para. 1 of the Order.

Count 2

76. Count 2 alleges breaches of para. 2 of the Order. Para. 2 of the Order required Mr Stanford, by 4pm on 19 May 2022, to:

> " *… provide (so far as they are within his power possession or control) to the Claimants' solicitors copies of all correspondence or communications (whatever their form and including, without limitation, audio recordings) passing between:*
>
> *(1) the Defendant (or any person acting on his behalf) and the person who supplied the Archive to the Defendant (the 'Supplier') (or any person acting on the Supplier's behalf) which led to the supply of the Archive*
>
> *(2) the Defendant (or any person acting on his behalf) and each and every third party ('Third Party Recipient') that contains any reference to, material from or information about the Archive*".

77. I am satisfied beyond reasonable doubt that Mr Stanford failed to act in the manner required by para. 2 of the Order.

78. No documents were provided by Mr Stanford by 19 May 2021, as para. 2 required, although it is clear that documents responsive to para. 2 exist and are in Mr Stanford's possession, custody or control.

79. Indeed that is Mr Stanford's own position, because in his 18 May 2021 Statement (above at [36]) he referred at para. 6 to his belief that:

> " *... all correspondence or communications between myself and Michael Wright and details of the Third Party Recipient copies of the Archive, in whole or in part, are likely to lead to criminal liability for KEVIN GERAL STANFORD.*"

80. This seems to be an invocation of the privilege against self-incrimination, but there was no proviso in the Order entitling Mr Stanford to decline to produce documents in reliance on the privilege against self-incrimination: this was a matter addressed at some length in my earlier Judgment (see at [57]-[82]).

81. Mr Stanford's reference in his para. 6 to "*correspondence and communications*" between himself and (a) Mr Wright, and (b) third parties, in connection with the Archive, seems to me to be a clear acknowledgment that such documents exist. In any event, as Mr Grant demonstrated in his submissions, there is a wealth of other evidence that that is the case. This includes the following:

i) As regards communications with the "*Supplier*" (Mr Wright):

a) Writing to Judge Raymond in Monaco on 17 February 2021, who was investigating allegations involving Mr Wright, Mr Stanford referred to his being willing to "*provide you [i.e. Judge Raymond] with my correspondence with Michael Wright*".

b) In a letter to Mr Shacklady dated 17 February 2021, Mr Stanford again referred to his being willing to disclose " *... my correspondence with Michael Wright to the investigating Judge in Monaco*".

c) In a letter the following day, 18 February 2021, sent to Mr Shacklady, Mr Stanford said: *"... I propose that I provide your clients with my correspondence with Michael Wright if your clients unequivocally confirm that they will not cause to initiate any proceedings against me regarding the Archive.*"

ii) As to communications with third parties, the following all support the inference that such documents exist:

a) In his Draft Complaint at para. 73 Mr Stanford referred to having " *... provided Isabel Oakeshott with extra material from the Archive to enable her to write a more detailed article for the Mail on Sunday ...*".

b) In an email to Mr Shacklady dated 10 July 2020, Mr Stanford referred to having delivered to Buckingham Palace "*material (which includes the archive) ...*".

c) In an email to Mr Shacklady dated 16 February 2021, during the period immediately before the hearing of the Norwich Pharmacal application, Mr Stanford, in commenting on the draft order provided to him at that stage, said: "*The attached draft order requires me to disclose*

correspondence with third parties (including Michael Wright) which I cannot do unless ordered by the Court".

d) In his letter to Mr Shacklady dated 18 February 2021, already referred to above, Mr Stanford, again drawing a distinction between communications with Mr Wright and with other parties, said: "*I am not prepared to provide third-party correspondence concerning dissemination of parts of the Archive that were in the Public Interest or exposed criminality*".

e) It is apparent from (i)(a) and (b) above that Mr Stanford was in contact with the investigating Judge in Monaco, Judge Raymond.

82. In the circumstances, it is clear beyond any reasonable doubt that Mr Stanford has failed to act in the manner required by para. 2 of the Order

Count 3 and Count 4

83. It is convenient to deal with Counts 3 and 4 together.

84. Both relate to breach of para. 3 of the Order. By para. 3, Mr Stanford was required to swear and serve on the claimants' solicitors by 4pm on 19 may 2021 an affidavit providing "*full and accurate details of*":

> "*(1) The precise circumstances in which the Defendant came into possession of the Archive, including, without limitation, the date(s) of the supply of the Archive (and for each such date what precisely was supplied), the precise manner of such supply and whether any payment was made in respect of the supply (and if so in what amount on what date and to whom)*
>
> *(2) The name and position of the Supplier and if the Supplier acted at any point through any other person in relation to the supply of the Archive, the name and position of each such person*
>
> *(3) Any copies of or material from the Archive which the Defendant (or any person acting on his behalf) has provided to any Third Party Recipient*
>
> *(4) The circumstances in which the Defendant (or any person acting on his behalf) provided each and every Third Party Recipient with copies or material from the Archive (including, without limitation, the date and means of provision, identifying what material from the Archive was actually provided to that Recipient and setting out details (insofar as the Defendant is aware) of what use the Recipient intended to and did make of the material)*".

85. Para. 3 was subject to the following proviso:

> " *… if the provision of any of the information required to be provided under this paragraph is likely to incriminate the Defendant, he may be entitled to refuse to provide it, but is recommended to take legal advice before refusing to provide the information. Wrongful refusal to provide the information is contempt of Court and may render the Defendant liable to be imprisoned, fined or have his assets seized.*"

86. Count 3 relies on the fact that the Affidavit required under para. 3 was not provided. Count 4 relies on the fact that instead, in para. 6 of his 18 May 2021 Statement (above at [36]), Mr Stanford sought without proper justification to invoke the privilege against self-incrimination, in order to excuse himself having to provide the information about communications with Mr Wright and with third parties which the intended Affidavit was otherwise required to contain.

87. Again, I am satisfied beyond reasonable doubt that Mr Stanford has failed to act in the manner required by para. 3 of the Order.

88. To begin with, the 18 May 2021 Statement was not, in fact an Affidavit.

89. More substantively, and dealing first with the requirement in para. 3 for Mr Stanford to provide on Affidavit "*full and accurate details*" of the "*precise circumstances in which [Mr Stanford] came into possession of the Archive*", para. 3 plainly required a more detailed account to be given than that already provided by Mr Stanford in his letter of February 2021, sent shortly before the hearing of the Norwich Pharmacal application. Yet the brief account given in the 18 May 2021 Statement is in almost identical terms, which is apparent from comparing the text at [7] above to that at [36] above.

90. In his written submissions to the Court, Mr Grant gave some examples of the matters which one might have expected to see in an account giving "*full and accurate details*", as follows:

    i) how and when Mr Stanford first came into contact with Mr Wright;

    ii) whether he approached Mr Wright or the other way around;

    iii) what the purpose of Mr Wright's visit to Mr Stanford's home on 10 October 2015 was;

    iv) what communications passed between Mr Wright and Mr Stanford ahead of that visit;

    v) what precisely Mr Wright provided to Mr Stanford and when;

    vi) what Mr Stanford knew or was told about the Archive and its provenance;

    vii) what use Mr Stanford said he intended to make of the Archive and what (if any) suggestions Mr Wright made as to how Mr Stanford could use the Archive;

    viii) whether any payment (in whatever form, monetary or otherwise) was made in respect of the supply of the Archive; and

ix) why the account Mr Stanford now gave was materially different to that provided both in the draft Complaint and in his first witness statement, where Mr Stanford had said that he received the Archive in April (not October) 2015, and via a hard drive he was given (not by means of his IT contractor taking a copy of data stored on a laptop).

91. I respectfully agree with these points. What they illustrate is that the brief account given leaves many obvious questions unanswered. It is clear, therefore, that it does not contain the "*full and accurate details*" required under para. 3 of the Order.

92. Beyond the brief account given of his contact with Mr Wright, Mr Stanford in his 18 May 2021 Statement gave no further information about either his contacts with Mr Wright or his communications with third parties in relation to the Archive. Instead, as already noted above, he made only the short statement in para. 6 (see above at [36]), to the effect that "*all correspondence or communications between myself and Michael Wright and details of the Third Party Recipient copies of the Archive, in whole or in part, are likely to lead to criminal liability for KEVIN GERALD STANFORD.*"

93. Was this sufficient compliance with para. 3 of the Order, including the proviso? I am in no doubt that it was not.

94. In order for the privilege against self-incrimination to be engaged there must be a real and appreciable risk that the party will be charged with a criminal offence and not simply a risk that is remote or insubstantial. At the hearing of the Norwich Pharmacal application, the principal difficulty encountered in dealing with this topic arose from a complete lack of clarity on Mr Stanford's part as to what offence or offences he felt he was at the risk of being prosecuted for. I explained the position as follows at [70]:

> "*Mr Stanford's position is also unsatisfactory. He says only that there is a risk of prosecution for* some *offence, but he does not say which, and as the Divisional Court explained in R (Malik) v. Manchester Crown Court [2008] 4 All ER 403, at [68], it is important that the relevant offence is identified, since that is of great assistance in the* [sic] *evaluating the associated risk. That is perhaps particularly so in the present case given the different types of information sought by paragraph 2 of the draft order* [which became paragraph 3 of the 21 April Order]. *Depending on the offence said to be relevant, it may be that some topics can be addressed without any real risk of incrimination, but not others.*"

95. At [71]-[73], I went on as follows:

> "*71. Given the uncertainty, how best to proceed? I am not persuaded that I should adopt the position advocated by the Claimants, and say that Mr Stanford's attempted invocation of the privilege should simply be rejected. Given Mr Stanford's status as a litigant in person and the manner in which the privilege issue developed, I think it would be wrong and unfair to adopt such a blanket approach. At the same time, however, I also think it would be wrong on a blanket basis to decline to*

> *make any order at all in the terms of paragraph 2 of the Claimants' draft.*
>
> *72. Instead, it seems to me the better approach is to make an order modelled on paragraph 2 of the Claimants' draft, but with two important modifications. The first, despite Mr Grant's objection to the idea, is to include as a proviso to what is presently para. 2(1), wording along the lines of that mentioned at [58] above, based on the language found in the model form freezing order.*
>
> *73. I accept that this may be a novel approach, and that the circumstances are different to those of the typical freezing order case. Nonetheless, it seems to me the same basic principle of fairness applies. In the unusual circumstances of this case, Mr Stanford, like the Respondent to a freezing order, should both be encouraged to consider his position and to take advice in relation to it, and then, if it is justified, should be entitled to provide some or all of the information otherwise demanded by what is presently para. 2(1). If his position is challenged, it can then be further considered but with the benefit of a clearer explanation of Mr Stanford's position than is presently available.*"

96. At [74] however, I continued as follows:

> " *… nothing in what I have said should be construed as an encouragement to take unfounded objections with a view to buying time. It is axiomatic that the privilege against self-incrimination may only be invoked by someone acting in good faith and for his own protection, and not for some ulterior purpose. The proviso I suggest makes it clear that the wrongful refusal to provide the information sought is a contempt. My hope and expectation is that, with the benefit of the legal assistance which appears to be available to him, Mr Stanford will be able to undertake a properly considered examination of his position on this important point which was rather lost in the mix in his earlier written and oral submissions.*"

97. The issue for Mr Stanford is that matters have not moved on. What was an inadequate invocation of the privilege against self-incrimination in early 2021 is an inadequate invocation of the privilege now. Although Mr Stanford had had the benefit of legal advice both on a paid and *pro bono* basis at the time of the Norwich Pharmacal proceedings (see above at [10]), and although at the hearing on 21 April 2021 he indicated he had could access assistance in providing a responsive Affidavit (above at [15]), nothing is available to suggest that the privilege against self-incrimination issue has been given any real thought or consideration in the year or so since the Order was made. In connection with the present Contempt Application, Mr Stanford was expressly told of his right to seek Legal Aid, including in Forsters' letter of 11 February 2022 providing a copy of the Contempt Application. The upshot is that the Court is none the wiser as to what Mr Stanford's position actually is.

98. I put it as follows. It seems to me that what was required by para. 3 of the Order was either provision of an Affidavit setting out the required information, or, if the proviso was sought to be relied on, an explanation of why that was so going beyond the blanket and general assertion of a risk of prosecution for some offence made at the time, which I described in my Judgment as unsatisfactory and which Mr Stanford must have appreciated was inadequate.

99. In the event, neither was provided by 19 May 2021, and neither has been provided subsequently. In the circumstances I am entirely unpersuaded there is a real and appreciable risk of prosecution. The inescapable conclusion therefore is that Mr Stanford has failed to act in the manner required by para. 3 of the Order.

Did Mr Stanford know of the facts which made his conduct a breach?

100. On this point, I am also satisfied beyond a reasonable doubt that Mr Stanford knew of the facts which made his conduct a breach. Taking the various points in turn:

i) As to para. 1 of the Order, Mr Stanford himself was the person who provided the USB drive on 5 May 2021. It is correct that the later steps taken to provide hyperlinks on 9 May and 3 June were taken by Mr Jackman, but I am entirely satisfied that Mr Stanford knew about those steps and authorised them. He had by then appointed Mr Jackman as his "*private administrative agent*". The materials provided could not have been provided without the co-operation of Mr Stanford. During the hearing of the Contempt Application, Mr Jackman was present and supported Mr Stanford, and there was close communication between them at a number of points. All of that is consistent with the idea that Mr Stanford knew what Mr Jackman was doing and indeed had asked him to do it.

ii) As to paras 2 and 3 of the Order, again it was Mr Stanford himself who provided the 18 May 2021 Statement, which was the only document received which potentially could be responsive to paras 2 and 3. Mr Stanford was obviously aware of his own conduct.

101. This is also an appropriate point to deal briefly with Mr Stanford's stated belief, which he has repeated a number of times, that because his 5 May 2021 Statement has never been responded to by means of a rebuttal or "*Sufficient Answer*", the effect is that the Order as made by this Court is "*null and void*".

102. First, the Order is not null and void. It seems that Mr Stanford professes belief in an alternative system of justice under which he thinks it is; but that system of justice has no relevance in this Court.

103. Second, as far as the mental element required for a finding of contempt is concerned, it is now well established that knowledge does not mean that the contemnor must be shown to have known that what he did or failed to do actually constituted a breach of the order. Instead, as the Court of Appeal recently held in Varma v. Atkinson [2021] Ch 180 at [54]:

> " *… once knowledge of the order is proved, and once it is proved that the contemnor knew that he was doing or omitting to do certain things, then it is not necessary for the contemnor to know*

> *that his actions put him in breach of the order; it is enough that as a matter of fact and law, they do so put him in breach*."

104. I have already held that Mr Stanford (i) was aware of the Order, and (ii) knew that he was doing or omitting to do the things I have described above. Insofar as Mr Stanford's professed belief might be said by him to support the idea that he did not know that what he was doing (or failing to do) constituted a contempt, because subjectively he believed the Order to be null and void, that seems to me to be entirely irrelevant. He was aware of the Order, and aware of the steps he took (or failed to take) to comply with it. He was therefore, as a matter of fact and law, in breach. It is irrelevant whether, subjectively, he thought he was or not. Thus, I am satisfied beyond a reasonable doubt that the mental element required for a finding of contempt is made out.

105. Third, and in any event, I am satisfied beyond a reasonable doubt that Mr Stanford did in fact appreciate that his actions would put him in breach of the Order and that he might be held liable in contempt in consequence. In stating that conclusion I rely on the following matters:

i) The fact that the penal notice was expressly drawn to his attention at the hearing on 21 April 2021, and its effect explained.

ii) The inherent implausibility of Mr Stanford, who was previously a successful and accomplished businessman, in fact believing that the effect of his 5 May 2021 Statement was to render the Order null and void – i.e., of no effect whatever against him.

iii) The fact that the first inklings of Mr Stanford's belief in his alternative system of justice emerged only in April 2021, when it was apparent that an Order would be made against him which he would need to comply with.

iv) The threats (express and implied) made against Forsters and against Mr Head and Mr Shacklady of that firm personally, in (a) Mr Stanford's letter of 23 June 2021 ([41] above), (b) Mr Stanford's letter of 22 December 2021 ([45] above), (c) Mr Jackman's email of 6 March 2022, sent after the issue of the Contempt Application, in which he asked for details of Forsters' professional indemnity insurance ([48] above). I accept Mr Grant QC's submission that these threats were made with the intention of seeking to dissuade Forsters from taking further action against Mr Stanford, based on the Order. Had Mr Stanford truly believed the Order to be null and void, such threats would have been unnecessary.

Overall Conclusion

106. My overall conclusion on liability is that the Claimants' Contempt Application succeeds on all Counts (although in my judgment Counts 3 and 4 are overlapping and reflect a single breach of para. 3 of the Order).