

Neutral Citation Number: [2023] EWFC 131

Case No: ZZ20D64316

IN THE FAMILY COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 4 August 2023

Before :

MR JUSTICE PEEL

Between :

Dmitry Tsvetkov

- and -

Elsina Khayrova

Deborah Bangay KC and Richard Sear (instructed by Levison Meltzer Pigott) for the Applicant
Patrick Chamberlayne KC and Phillip Blatchly (instructed by Family Law in Partnership) for the Respondent

Hearing date: 28 July 2023

**Judgment Approved by the court
for handing down**

Mr Justice Peel :

1.

I must now consider costs arising out of my judgment in these financial remedy proceedings.

2.

I have made findings against W of multiple instances of litigation misconduct, including, but not limited to, repeated lies to H and the court about the Preserved Items. Her Form E was woefully deficient. She took steps at the time of separation to place assets beyond H’s reach. She for a while sought to sell the Stirakia shares for \$2.5m, well below the true value. She opened a line of communication with the Magdeevs, and shared financial information with them to undermine H’s position in the various strands of ongoing litigation and, in doing so, breached an undertaking given to me as well as the implied duty of confidentiality. I found against her on Item C and various other missing items which had been retained by her, but which she falsely accused H of removing. She is guilty of sustained duplicity. She led the court on a merry dance about handbags. I largely found in H’s favour on the main factual and computational disputes. In my judgment, the case has been infected by W’s dishonesty from start to finish.

3.

On the other hand, in terms of open proposals W points to her offer which sought a 50/50 outcome. I adopted that approach, rather than H's suggested 60/40. I accept that H on occasion overplayed claimed losses, and his position on child maintenance was found by me to be unreasonable. W also validly makes the point that that H advanced a specific conduct case which in a number of respects was not successful, and occupied a significant amount of court time. I also agree that the costs estimate put forward by H in relation to the Preserved Items at £484,937 is significantly overstated or duplicated (not deliberately, I hasten to add) for reasons set out by W's counsel.

4.

Overall, she carries greater responsibility for this expensive litigation and this is a case where I should depart from the No Order starting point. In my judgment it is appropriate to make an award against her of 50% of H's costs on the indemnity basis. I consider that I am able to, and should, undertake a summary assessment.

5.

H's total costs are £1,761,488. 50% thereof is £880,744 (which shall include the interlocutory costs order already made). I shall deduct 15% for a notional assessment on the indemnity basis. Thus, 85% of the said sum shall be recoverable i.e £748,632. Of that, 50% shall be paid forthwith i.e £374,316 (including the £113,000 under the interlocutory costs order). The balance shall be set off against the lump sum payable by H, and interest shall not run on it in the meantime.