Case No: BR-2023-000471
Neutral Citation Number: [2023] EWHC 3238 (Ch)

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

Royal Courts of Justice
Strand
London
WC2A 2LL

Monday, 16 October 2023

BEFORE:

MR JUSTICE MILES

BETWEEN:

GARY TAYLOR AND MATTHEW DIX
(AS JOINT TRUSTEES OF THE ESTATE IN BANKRUPTCY)

Applicant

- and -

MICHAEL ANDREW MILLER

Respondent

MR J TITMUSS (instructed by **Wilkin Chapmans LLP**) for the Claimant
THE RESPONDENT appeared in person.

APPROVED JUDGMENT

Mr Justice Miles:

1. This is an application for the committal of the respondent, Mr Michael Andrew Miller. The applicants are Mr Dixon and Mr Taylor, the joint trustees in bankruptcy of Mr Miller. There is a long history to the bankruptcy. It is not necessary to go into that history, save to say that Mr Miller considers that earlier orders of the court, including for his bankruptcy, should not have been made.

2. Those complaints have led to a great deal of litigation, including various applications made by Mr Miller. It also led to a great deal of communication between Mr Miller and the trustees in bankruptcy, and communication between Mr Miller and various other people whom he believes have been involved in one way or another in the matters of which he complains.

3. That huge quantity of communications led to an order being made by Mr Justice Rajah on 23 June 2023, preventing Mr Miller as the respondent from doing various things regarding a list of people described as protected persons, and listed in the schedule to the order. Those persons included the trustees in bankruptcy. The order prohibited Mr Miller from pursuing a course of conduct which amounts to harassment within the meaning of the Protection from Harassment Act, 1997. It then went on to provide in particular:

> "The respondent is restrained from doing, causing, permitting, encouraging or assisting any of the following:
>
> 1. Threatening, intimidating or otherwise interfering with any protected persons.
>
> 2. Knowingly making –
>
> i) any communication to any protected person, whether orally by telephone or in writing, by facsimile, by email or other electronic means, which shall include, for the avoidance of doubt, any emails, texts, letters, communications through social media or telephone calls to a protected person or persons; or
>
> ii) any communication whatsoever to any protected person at their private home or on their private telephones, email addresses or social networking site; or
>
> iii) compelling or coercing any protected person against his will from doing something he is under no obligation to do, or not do something he is entitled or required to do."

4. The protected persons were listed.

5. There were other prohibitions. The orders were subject to a proviso that nothing in the order should prevent the respondent from communicating in writing and in a manner which complies with the terms of the order, and which does not harass

the applicants with a single point of contact, namely Mr Harding, a solicitor, or any other individual whom the applicant confirmed in writing should replace Mr Harding.

6. After that order, there were a number of emails from Mr Miller directly to Mr Taylor, one of the trustees in bankruptcy, continuing to make complaints about various aspects of the bankruptcy and the standing of the trustees in bankruptcy. There was a further order of Mr Justice Zacaroli on 3 July 2023, which was essentially in the same terms as the order of Mr Justice Rajah, save that the protected persons now included another named person. The breaches of the orders were serious in that the orders were designed to prevent precisely these kinds of communications.

7. After the order of Mr Justice Zacaroli, there were further communications between Mr Miller and the trustees in bankruptcy, including by email and voice mail. There was a hearing before Mr Justice Richard Smith on 21 July 2023, which led to a warrant for the arrest of Mr Miller being issued on 21 July 2023. There was then a hearing on 25 July 2023, before Mr Justice Richard Smith, in the course of which the judge accepted an undertaking from the applicants to issue an application for the committal of the respondent, Mr Miller, for contempt of court pursuant to CPR 81. The application which is now before me was then issued. At the hearing, Mr Justice Richard Smith explained to Mr Miller the importance of obeying the order of Mr Justice Zacaroli.

8. The claimants accept that since the order of Mr Justice Richard Smith on 25 July 2023, there have been no further instances of breach of the order of Mr Justice Zacaroli and the claimants through counsel accept that it appears that the injunction is now serving its purpose.

9. Mr Miller has appeared before me today. He has provided a written statement which he has repeated in court today. He accepts that there have been historical breaches of the orders of Mr Justice Zacaroli and Mr Justice Rajah. He says that he did not intend to threaten or harass anyone in the communications he made, but was simply seeking information going to the complaints that he has about the bankruptcy. He asks the court not to impose a custodial sentence or to suspend any custodial sentence, and proposes that the court at most should impose a fine.

10. I explained to Mr Miller that he had the right to apply for legal aid in order to seek professional assistance, and he confirmed that he had that understanding already. He said that any breaches had been historical, apologised to the court, and said that he would prefer to put this matter behind him and move on. He did not seek an adjournment. I therefore continued with the hearing.

11. As already stated, Mr Miller admits that there have been breaches of the orders of Mr Justice Rajah and Mr Justice Zacaroli. He has apologised to the court for those breaches. This is therefore a case where Mr Miller has been in contempt of court, and I so find on the basis of his conduct and admissions.

12. As to the question of sanction, essentially there are two main functions of a sanction for contempt of court. The first is to seek compliance and the second is to punish for past breaches. I take into account the whole history already described. The purpose of the orders was obvious on their face. Mr Miller persistent emails amounted were in the nature of harassment and the order was designed to stop that and ensure that future communications went through a single identified channel. The respondent continued to communicate with protected persons despite that regime. It appears to me however that this is plainly not a case for a custodial sentence. The claimants also accepted that the purpose of the injunction is now being achieved.

13. Mr Miller assured me that there would be no further breaches of the order of Mr Justice Zacaroli, and that he is fully aware of the requirement that any communications should be with the sole point of contact at the applicants' solicitors. It does, however, appear to me that there should be some punishment to mark the contempts which are admitted. Mr Miller has said that a maximum fine should be £1,000, and I heard no submissions to the contrary. I take into account Mr Miller's position as a discharged bankrupt. It seems to me in all the circumstances that the proper sanction for the contempt this case is a fine of £1,000. I shall so order.

Epiq Europe Ltd hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

Unit 1 Blenheim Court, Beaufort Business Park, Bristol BS32 4NE
Email: civil@epiqglobal.co.uk

This transcript has been approved by the Judge