Neutral Citation Number: [2024] EWHC 3316 (Ch)

Case Nos: IL-2021-000019

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

Royal Courts of Justice, Rolls Building
Fetter Lane, London, EC4A 1NL

Date: 20 December 2024

Before :

MR JUSTICE MELLOR

- -

Between:

CRYPTO OPEN PATENT ALLIANCE	**Claimant**
- and -	
DR. CRAIG STEVEN WRIGHT	**Defendant**

- -
- -

Jonathan Hough KC and Jonathan Moss (instructed by **Bird & Bird LLP**) for **COPA**
Dr Wright appeared in person by remote link

Hearing date: 19 November 2024

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APPROVED JUDGMENT ON SENTENCING

This judgment was handed down remotely by circulation to the parties' representatives by email. It will also be released for publication on the National Archives and other websites. The date and time for hand-down is deemed to be 3pm on Friday 20 December 2024.

THE HON MR JUSTICE MELLOR

Mr Justice Mellor:

1. At 2pm on Thursday 19 December 2024 I handed down my judgment finding Dr Wright in contempt on Grounds 1-5 advanced by COPA – see [2024] EWHC 3315 (Ch), to which reference should be made for various defined terms I use in this Judgment. These were serious contempts. I then proceeded to hear submissions on sentence. Dr Wright attended that hearing by remote link, but he declined to identify which country he was in, saying only that he was in Asia.

2. Submissions lasted until about 3.25pm and I retired for a short time to consider the sentence I should impose on Dr Wright. The hearing resumed at 3.45pm when I gave some short reasons for the sentence and sanctions I imposed on Dr Wright. These were, in summary:

    i) That, pursuant to CPR3.3 and 3.4 I struck out the New Claim as an abuse of process.

    ii) That I imposed on Dr Wright a sentence of imprisonment of 12 months, suspended for 2 years.

    iii) That I ordered Dr Wright to pay COPA's costs of the Contempt Application (and of the New Claim) on the indemnity basis. On the basis of a revised costs schedule indicating total costs of £169k incurred on the Contempt Application, I ordered Dr Wright to pay to COPA by way of interim payment on account of costs the sum of £145,000 within 14 days.

    iv) That I ordered Dr Wright to pay SquareUp's costs of the New Claim on the indemnity basis and directed that I would make an appropriate order on provision of a costs schedule.

3. When outlining those short reasons, I indicated that I would give fuller reasons in a written judgment. This is that judgment.

Applicable legal principles

4. COPA drew my attention to two sets of applicable principles: the first concerned sentencing for contempt of court generally and the second concerned the much more specific topic of sentencing for breaches of anti-suit injunctions.

General Principles applying to sentencing for contempt of court

5. The general principles to be applied by the court in sentencing for contempt were summarised by the Supreme Court in *Attorney General v Crosland* [2021] UKSC 15, [2022] 4 WLR 103 at para. 44, drawing on the decision of the Court of Appeal in *Liverpool Victoria Insurance Co Ltd v Khan* [2019] EWCA Civ 392, [2019] 1 WLR 3833 at paras. 57-71, as follows (the "**Crosland Principles**"):

    1. The court should adopt an approach analogous to that in criminal cases where the Sentencing Council's Guidelines require the court to

assess the seriousness of the conduct by reference to the offender's culpability and the harm caused, intended or likely to be caused.

2. *In light of its determination of seriousness, the court must first consider whether a fine would be a sufficient penalty.*
3. *If the contempt is so serious that only a custodial penalty will suffice, the court must impose the shortest period of imprisonment which properly reflects the seriousness of the contempt.*
4. *Due weight should be given to matters of mitigation, such as genuine remorse, previous positive character and similar matters.*
5. *Due weight should also be given to the impact of committal on persons other than the contemnor, such as children of vulnerable adults in their care.*
6. *There should be a reduction for an early admission of the contempt to be calculated consistently with the approach set out in the Sentencing Council's Guidelines on Reduction in Sentence for a Guilty Plea.*
7. *Once the appropriate term has been arrived at, consideration should be given to suspending the term of imprisonment. Usually the court will already have taken into account mitigating factors when setting the appropriate term such that there is no powerful factor making suspension appropriate, but a serious effect on others, such as children or vulnerable adults in the contemnor's care, may justify suspension.*

6. In the *Liverpool Victoria Insurance* case, the Court of Appeal addressed principle (6), transposing the Sentencing Council's Guidelines directly: that a maximum reduction of one-third of the term would be appropriate when the contempt has been admitted as soon as proceedings are commenced, with a sliding scale thereafter down to about 10% where the admission was not made until trial. Since then, the Court of Appeal in *Lakatamia Shipping Co Ltd v Su* [2021] EWCA Civ 1355, [2022] 4 WLR 2 at para. 24 explained that the weight to be given to any admission will always be fact-specific, and that there is no absolute obligation to give credit for an admission. The Court in that case upheld a decision not to apply a reduction where the admission (a) was less than fulsome; (b) came after some time; (c) followed "*vigorous denials*" by the contemnor; and (d) produced little saving of time or money: see paras. 25-26.

7. In *Business Mortgage Finance 4 plc v Hussain* [2022] EWCA Civ 1264, [2023] 1 WLR 396 at [120], the Court of Appeal added to the Crosland Principles the following checklist of factors, derived from *Crystalmews Ltd v Metterick* [2006] EWHC 3087 (Ch) and *Asia Islamic Trade Finance Fund Ltd v Drum Risk Management Ltd* [2015] EWHC 3748 (Comm):

   (a) whether the claimant has been prejudiced by virtue of the contempt and whether the prejudice is capable of remedy;
   (b) the extent to which the contemnor has acted under pressure;
   (c) whether the breach of the order was deliberate or unintentional;
   (d) the degree of culpability;
   (e) whether the contemnor has been placed in breach of the order by reason of the conduct of others;
   (f) whether the contemnor appreciates the seriousness of the deliberate breach;

(g) whether the contemnor has co-operated;
(h) whether there has been any acceptance of responsibility, any apology, any remorse or any reasonable excuse put forward.

8. These factors are to be regarded as aspects of the seriousness of the contempt (under the first of the Crosland Principles): see *Madison Pacific Trust Limited v Groza* [2024] EWHC 2588 (Comm) at para. 98.

9. The Court of Appeal in *Business Mortgage Finance 4* (as cited above) at [119] also endorsed the following guidance given in *Solicitors Regulation Authority v Khan* [2022] EWHC 45 (Ch) at [52]:

(1) There are no formal sentencing guidelines for sentence/sanction in committal proceedings.
(2) Sentences / sanctions are fact specific.
(3) The Court should bear in mind the desirability of keeping offenders and, in particular, first-time offenders, out of prison...
(6) Committal to prison may serve two distinct purposes: (a) punishment of past contempt and (b) securing compliance: see Lightfoot v Lightfoot [1989] 1 FLR 414 at 414–417 (Lord Donaldson MR).
(7) It is good practice for the Court's sentence to include elements of both purposes (punishment and compliance) to make clear what period of committal is regarded as appropriate for punishment alone, i.e. what period would be regarded as just if the contemnor were promptly to comply with the order in question: see JSC Bank v Soldochenko (No 2) [2012] 1 WLR 350.
(8) Committal may be suspended: see CPR Part 81.9(2). Suspension may be appropriate: (a) as a first step with a view to securing compliance with the Court's orders: see Hale v Tanner [2000] 1 WLR 2377 at 2381; and (b) in view of cogent personal mitigation: see Templeton Insurance Ltd v Thomas [2013] EWCA Civ 35.

10. It is necessary to consider whether a sentence should be suspended. In general terms, sentencing courts should take account of the impact of the current very high prison population, particularly when considering shorter sentences and when deciding whether the sentence ought to be suspended: see *Lim v Ong* [2024] EWHC 373 (Ch) at para. 21. However, the Court of Appeal has very recently stressed (i) that this factor is only one which "may" (emphasised) justify a modest reduction in the term or, in some cases, a suspension of sentence; and (ii) "*prison overcrowding is not a valid reason not to pass a sentence of immediate custody if that is the appropriate sentence for the contempt in question*": see *Ahmad v Ouajjou* [2024] EWCA Civ 1480 at para. 30, Males LJ. It is also noteworthy that the Court in that case saw the contemnors' reliance on the principle as ironic given that they were determined to stay out of the jurisdiction.

The court's approach to sentencing in relation to breaches of an anti-suit injunction

11. The approach to sentencing for contempt of court by breach of anti-suit injunctions has been addressed in the following cases: *Trafigura Pte Ltd v*

Emirates General Petroleum Corporation [2010] EWHC 3007 (Comm) at para. 19; *Mobile Telecommunications Co KSC v HRH Prince Hussam Bin Abdulaziz Au Saud* [2018] EWHC 3749 (Comm) at paras. 25-28; and *Dell Emerging Markets (EMEA) Ltd v Systems Equipment Telecommunications Services SAL* [2020] EWHC 1384 (Comm) at para. 16.

12. COPA submitted that two key principles emerge from those cases. First, breaching an anti-suit injunction is inherently a serious attack on the administration of justice. Secondly, breaching an anti-suit injunction is comparably serious to breaching a freezing order, and accordingly the principles governing for sentencing for the latter type of breach should apply to the former, such that in general an order for committal is appropriate and "*a broad range of conduct can fairly be regarded as justifying a sentence at or near the two year maximum*": see *Mobile Telecommunications* at paras. 26-27 and *Dell Emerging Markets* at para. 16.

13. Given the close analogy between sentencing for breach of anti-suit injunctions and for breach of freezing orders, COPA submitted that the following guidance for the latter should be borne in mind:

    i) In *JSC BTA Bank v Solodchenko and others (No.2)* [2011] EWCA Civ 1241, [2012] 1 WLR 350 at para. 51, Jackson LJ said that he had considered a series of first instance decisions and summarised the state of the law as follows: "*any deliberate and substantial breach of the restraint provisions or the disclosure provisions of a freezing order is a serious matter. Such a breach normally attracts an immediate custodial sentence which is measured in months rather than weeks and may well exceed a year*." The Court of Appeal concluded that a sentence of 21 months was appropriate for failure to comply with the disclosure provisions of a freezing order, aggravated by the later giving of misleadingly incomplete disclosure and dishonest evidence.

    ii) In *Templeton Insurance Limited v Thomas* [2013] EWCA Civ 35, Rix LJ at para. 40 confirmed the summary of principle given in *Solodchenko*, before adding the following further guidance at para. 42:

    > *[W]hereas it will always remain appropriate to consider in individual cases whether committal is necessary, and what is the shortest time necessary for such imprisonment, and whether a sentence of imprisonment can be suspended, or dispensed with altogether: nevertheless, it must now be accepted that the attack on the administration of justice which is made when a freezing order is breached usually merits an immediate sentence of imprisonment of some not insubstantial amount. Of course, courts will bear in mind that the maximum sentence which can be handed down on any one occasion is two years; and will make due allowance for the encouragement of, or rewarding of, better thoughts and the purging of contempt, and for the credit due in the ordinary way for an admission of responsibility and remorse. Nevertheless, it must be borne in mind that breaches of freezing orders, unlike many other contempts, are nearly always*

spawned in darkness, and therefore will be hard, and sometimes impossible, to detect, until it is too late.

iii) In *McKendrick v Financial Conduct Authority* [2019] EWCA Civ 524, [2019] 4 WLR 65 at para. 40, the Court (Hamblen and Holroyde LJJ) explained:

Breach of a court order is always serious, because it undermines the administration of justice. We therefore agree with the observations of Jackson LJ in the Solodchenko case (see para 31 above) as to the inherent seriousness of a breach of a court order, and as to the likelihood that nothing other than a prison sentence will suffice to punish such a serious contempt of court. The length of that sentence will, of course, depend on all the circumstances of the case, but again we agree with the observations of Jackson LJ as to the length of sentence which may often be appropriate. Mr Underwood was correct to submit that the decision as to the length of sentence appropriate in a particular case must take into account that the maximum sentence is committal to prison for two years. However, because the maximum term is comparatively short, we do not think that the maximum can be reserved for the very worst sort of contempt which can be imagined. Rather, there will be a comparatively broad range of conduct which can fairly be regarded as falling within the most serious category and as therefore justifying a sentence at or near the maximum.

14. In *Madison Pacific Trust* (cited above) at [89], Bryan J said that in the context of contempt by breach of court order, the deterrent purpose of sentencing meant "*sending a message that 'breach of court orders will attract a heavy sentence'*" and (citing *Crystal Mews Ltd*) "*holding out the threat of future punishment as means of securing the protection which the injunction is primarily there to do*."

15. COPA also noted that the following sentences were handed down in the three cases concerned with breach of anti-suit injunctions discussed above. COPA also drew attention to the fact that in those cases the defendants did not appear and were not represented at the contempt hearings.

i) In *Trafigura*, a period of committal of 12 months was ordered in relation to breach of the anti-suit injunction and a further period of 12 months in relation to a breach of a freezing order, with the two sentences to run concurrently.

ii) In *Mobile Communications*, drawing on *Trafigura*, a period of committal of 12 months was ordered in relation to a breach of an anti-suit injunction. Consideration was given to the fact that this was the defendant's first offence. At [33], Jacobs J explained: "*it is clear to me that there is no practical alternative to imprisonment. A fine will, if I impose it, simply be ignored. It is only imprisonment which will bring the seriousness of what Prince Hussam has done to his attention, and it is only imprisonment which may possibly have any impact upon how matters proceed in the future."*

iii) In *Dell Emerging Markets*, two defendants were committed for 18 months and two for 9 months for breaching anti-suit injunctions (interim and final). In relation to each defendant, Henshaw J gave a non-binding indication that the court would be likely to give favourable consideration to remitting half of their sentence if they were promptly to discontinue the offending proceedings.

16. I have to return to consider these three cases in more detail later, although in general terms I accept all the principles which COPA identified.

COPA's submissions on sentence

17. Although sentencing is a matter for the Court, I will set out COPA's submissions as to the sentence they submitted was appropriate in this case.

18. In accordance with the approach recommended in the authorities (notably *Crosland*), COPA structured their submissions as follows:

i) First, by addressing the seriousness of Dr Wright's conduct, by reference to the checklist of factors identified in the *Business Mortgage Finance 4* case.

ii) Second, they considered the appropriate length and structure of sentence by reference to the remaining Crosland Principles and related policy considerations.

iii) Third, they drew attention to the evidence as to the harmful effects of Dr Wright's contempts, as set out in Mr Sherrell's second affidavit from [122] onwards, which I have kept in mind.

<u>The seriousness of Dr Wright's conduct</u>

Prejudice to COPA and whether this is capable of remedy

19. After more than three years of expensive and burdensome litigation resulting from Dr Wright's dishonest claims, which led to the Order being made in its favour, COPA submitted it might reasonably have expected the Order to have been the end of the matter (subject to the appeal, which has now been resolved). It had been clearly established that Dr Wright had not invented Bitcoin, and he had abandoned his claims to intellectual property rights relating to the Bitcoin System. COPA's objective of preventing the chilling effects of Dr Wright's claims on cryptocurrency development appeared to have been achieved. Instead, only three months after the Order was granted, COPA submitted it found itself back at square one, faced with an even more exorbitant claim than before and being forced to spend yet more money dealing with Dr Wright.

20. Although COPA submitted the New Claim was unfounded, abusive, and grossly overinflated, it has had no option but to take action, and to expend a considerable amount of time and money in doing so. Likewise, it was submitted that SquareUp (a COPA member, and part of the Block group of companies which

were represented partes in the Joint Trial) has had to incur substantial cost in dealing with proceedings which advance the same claims it had previously faced in the BTC Core Claim and which it understood were barred by the Order.

21. COPA has had to engage with the New Claim, and to bring these contempt proceedings, not only to prevent itself and further members facing enormous claims (which would have resulted from Dr Wright's adding them as defendants to the New Claim), but also to limit further chilling effects upon cryptocurrency development. Although COPA recognises that the financial prejudice it has suffered may be reduced through recovery of costs, the prospects of recovery now seem much more doubtful, given suggestions by Dr Wright at the last hearing of his greatly reduced circumstances, his allegation yesterday that he did not have the means to travel to London for this hearing and the apparent abandonment by his financial backer, Mr Ayre. Quite apart from the legal costs incurred by COPA, the New Claim will undoubtedly have diverted management effort and time away from other work towards dealing with Dr Wright. The trouble caused by Dr Wright is again impossible to remedy fully.

22. COPA submitted that in this case the court can and should also take into account the prejudice to other parties, just as it did when making the Order in the first place. I have no doubt that I must do so. As I previously accepted in my judgment on relief, Dr Wright's original campaign of litigation caused serious distress and hardship to those he targeted and had chilling effects on cryptocurrency development. In bringing the New Claim, Dr Wright has now repeated his offence. As Mr Sherrell describes in his second Affidavit at [124], Dr Wright has emailed copies of the New Claim to various law firms apparently representing companies he is targeting. He has publicised his claims extensively with social media, including in postings on X (Twitter) saying that all partners in the supposed "BTC Core partnership" had been served with the New Claim and had to serve defences by 29 October 2024, failing which default judgment could be entered: see **[C/1/448]**. Given that he has also presented his claim as being against "BTC developers" generally (in tweets exhibited by Mr Sherrell) any developer taking an interest would know or suspect that this applies to him or her.

23. Accordingly, so COPA submit, Bitcoin developers have once more had to suffer the distress and inconvenience of knowing or at least suspecting that Dr Wright is attempting to sue them for huge sums of money and intending to use the proceedings to blacken their names. The Order was made after careful consideration to prevent this happening, and Dr Wright's conduct has so far denied developers the benefit of its protection.

The extent to which Dr Wright has acted under pressure

24. There is no evidence to suggest that Dr Wright has acted under pressure: quite the contrary. His conduct in and in connection with these proceedings has been entirely on his own initiative. If anything, Dr Wright appears to have relished being on his own and no longer being subject to the restraints of his previous legal teams, whom he has consistently and falsely accused of letting him down.

Whether the breach of the Order was deliberate or unintentional

25. COPA submits that either Dr Wright knew that his conduct – in threatening to issue the New Claim and then doing so – would breach the Order or he was reckless as to his conduct breaching the Order. Because Dr Wright did not attend the hearing yesterday, COPA did not have the opportunity to put their case to him in cross-examination.

26. By way of background, COPA reminded me that Dr Wright has an LLM in International Commercial Law from the University of Northumbria, and that (as he said in his second statement for the contempt proceedings, at para. 2.1) he is currently studying for a PhD in law and is a member of the Society of Legal Scholars. He also claimed to have researched the law and his potential claims extensively before preparing and issuing the New Claim: see the same statement at para. 2.2. He said that he carried out extensive legal research with lawyers and colleagues in his academic network; that he thoroughly reviewed the Order and relevant case law; and that he thoroughly discussed the relevant legal matters with unnamed "*lawyers and barristers*".

27. Against that background, COPA submitted that it is simply implausible that Dr Wright did not either know that the New Claim would breach the terms of the Order or was reckless as to that matter (i.e. issued the New Claim without in truth caring whether it would be in breach). For example:

    i) Any intelligent person applying their mind to the Order would appreciate that for Dr Wright to advance a claim in passing off based expressly on an assertion of ownership of goodwill in the name "Bitcoin" would breach the Order, all the more so if that person had researched the case law and seen the basic point that ownership of goodwill is an essential element of such a claim.

    ii) Likewise, any intelligent person applying their mind to the Order would understand that for Dr Wright to advance a claim for infringement of copyright in the Bitcoin White Paper or Bitcoin File Format, or a claim for infringement of database right in the Bitcoin Blockchain, would be a breach of the Order.

    iii) Anyone reading para. 6 of Dr Wright's Particulars of Claim in the New Claim (which we can presume Dr Wright did) would see that he was re-asserting his claim to be Satoshi and to have performed acts known to have been done by Satoshi, contrary to the clear terms of the Order.

28. Against that background, Dr Wright's claims to have been seeking to respect the Order ring very hollow. At the very least, he must have seen that there was a risk that his conduct would infringe its terms. However, it was simply too important to him to maintain the posture that he would be "*unstoppable*" and "*fight like hell*", a stance he has promulgated to his group of supporters: in this regard I refer to the tweets he posted directly after issuing the New Claim.

The degree of culpability

29. COPA submitted that the degree of culpability in this case is extremely high, for the following reasons:

    i) In threatening and then issuing the New Claim, Dr Wright committed a series of breaches of clear anti-suit injunctions, provisions of which he had been well aware for several months.

    ii) These were proceedings which he personally prepared and issued, supposedly after careful thought and preparation.

    iii) His conduct was calculated to cause the maximum harm, cost and inconvenience to others, in claiming £900 billion and apparently targeting over 100 companies and a diffuse group of individuals (most in other jurisdictions): see the "Schedule of Partners" appended to his application of 25 October 2024. These include the companies and developers who were defendants in Dr Wright's first round of litigation and are now under attack again, as well as new targets. They also include news media companies, such as CoinDesk, Dcrypt Media and Cointelegraph. Dr Wright has repeated the offence he committed before, again claiming an astronomical sum (the earlier claims being put at "*hundreds of billions of pounds*"). The strategy appears to be to terrorise his perceived enemies by threatening them with total financial ruin.

    iv) COPA therefore contended that if their submissions above are accepted, it is clear that Dr Wright's breaches were premediated, intentional and uninfluenced by any other person.

    v) COPA's final point under this head was that Dr Wright's New Claim was not only intended as an attack on a large number of companies and Bitcoin developers. He has also used it as a publicity device to keep his supporters engaged and to promote BSV. His abuse of the process has again been cynical and serious, just as when in the past he adopted the approach of bringing defamation proceedings against bloggers in an attempt to revive his claim to be Satoshi after the debacle of the "Big Reveal" in 2016.

Whether Dr Wright has been placed in breach of the Order by reason of the conduct of others

30. It cannot be said that the conduct of anyone else has led to Dr Wright breaching the Order as set out in COPA's Grounds 1 to 5. There may have been an argument about Ms Brown putting him in breach of the Order in relation to Ground 6, but COPA withdrew that Ground before the Contempt Hearing.

Whether Dr Wright appreciates the seriousness of breach

31. As explained in Mr Sherrell's Second Affidavit at [45] and following, Dr Wright is well aware of the consequences of breaching the Order. He did not dispute this part of COPA's evidence, but COPA developed the points set out below because they contended these are important considerations for sentencing.

32. First, submissions were made by counsel on behalf of Dr Wright at the relief hearing on 7 June 2024 which acknowledged those consequences. In particular, Dr Wright's counsel repeatedly referred to the prospect that Dr Wright would be imprisoned if he failed to comply with the orders then under discussion: see the transcript of that hearing at internal pages 79, 81, 123 and 126. Those potential consequences were also referred to in Dr Wright's skeleton for that hearing, which he must have approved, at paras. 24(2), 27(2)(b) and 29(5).

33. Second, the Order had a clear Penal Notice in the proper form. This was repeated prominently in the email serving the Order and it stated in clear terms the potential consequences of breaching the Order.

34. Third, Dr Wright has himself written about the seriousness of contempt of court. An extract from Dr Wright's book, *Satoshi's Vision: the Art of Bitcoin*, published in 2019 is reproduced in Mr Sherrell's exhibit and reads as follows:

> *The simple fact is that all items in the real world are subject to law. It does not matter that your tokens infer that you own an item. If a court assigns ownership of an underlying asset, the ownership of the asset is moved. There are no ifs, no buts and no maybes. The word of the court is law by definition […]*
>
> *If you have digital locks and these are tied to your token, you will need to hand over the token. If you fail to do so you are in breach and hence contempt of court. A contempt of court charge brings unlimited incarceration. A judge can incarcerate you until you comply. The result of this is that you either hand over the token or become subject to law.*
>
> *It does not matter whether you are in the jurisdiction of the court. […]*
>
> *If you don't like this, welcome to the real world, too bad. This is not a matter of arguing with me, it is pure existence and the world you live in. If you don't like it, vote against it, at least if you live in a democracy. [Emphasis added.]*

35. Although the powers of the court in this jurisdiction to incarcerate a contemnor are not in fact unlimited, the extract above clearly demonstrates Dr Wright's awareness of the serious ramifications that a breach of a court order may bring.

36. Fourth, Dr Wright has had previous experience of contempt proceedings, in which he must have been aware of the potential consequences. He was first found in contempt by the Supreme Court of Australia in *Wright v Ryan & Anor* [2005] NSWCA 368 (27 October 2005). The second finding of contempt against him (previously referred to in my freezing order judgment [2024] EWHC 743 (Ch), at [33]) was made by the Florida Court on 15 March 2024 in relation to the *Kleiman* litigation. Contempt proceedings were also brought against Dr Wright in this jurisdiction in *Wright v McCormack* [2023] EWHC 1030 (KB). In that case, it was decided that Dr Wright had a case to answer and that there was admissible *prima facie* evidence that Dr Wright may have committed contempt of court by disclosing the substance of a draft judgment in breach of an embargo. However, Dr Wright raised a number of new factual issues (in essence, shifting the responsibility onto his solicitors) which were held to be

beyond the practical ability of the court to investigate. Accordingly, a full investigation of the matter was deemed to be disproportionate to the likely sanction that would result, and the summons was discharged. COPA stressed that it made reference to the above judgments simply to establish Dr Wright's awareness of the consequences of a contempt finding, whilst recognising that they are not admissible as proof of the findings made in them.

Whether Dr Wright has co-operated

37. Other than his agreement to accede to COPA's application to dispense with personal service, Dr Wright has refused to co-operate at every stage of these proceedings. In particular, Dr Wright (i) refused to withdraw the New Claim once COPA's solicitors had notified him of its view that the New Claim was issued in breach of the Order, and indeed accused Bird & Bird of professional misconduct for even writing to him as they had; (ii) filed two further applications extending the scope of the New Claim (an application dated 20 October 2024 for further persons to "*provide evidence as interveners*" and an application dated 25 October 2024 to add a schedule of "*primary known partners of BTC Core*"); (iii) opposed COPA's application to stay the New Claim pending resolution of the Contempt Application; (iv) applied and persistently argued for all hearings (including the trial of the Contempt Application) to be heard remotely or on paper; (v) filed an application to amend his Particulars of Claim in spite of the New Claim having been stayed; (vi) set up or participated in the setting up of a page on the Metanet ICU website in an effort to add further parties to the New Claim. COPA also made reference to the allegations of bias Dr Wright made against me, which he recently extended to Arnold LJ, all of which I have concluded were totally without merit.

38. In the course of the conduct described above, Dr Wright has filed and served many hundreds of pages of material. His submissions have made reference to imaginary authorities and case citations, as well as rules of procedure that do not exist (e.g. a request for the Court to impose a fine on COPA under the non-existent rule CPR 81.12). He has also put forward entirely spurious allegations, including of judicial bias.

39. COPA recognises that a degree of latitude needs to be afforded to litigants in person. However, Dr Wright's conduct has travelled far beyond even the latitude that would be extended to an unexperienced litigant (which Dr Wright is not). As well as terrorising the targets of his claim and wasting their time and money, he has also again taken up valuable court resources. His aim appears to have been to make the process as onerous as possible for all concerned.

Whether there has been any acceptance of responsibility by Dr Wright, or any apology, remorse or reasonable excuse put forwards

40. Dr Wright has shown no remorse whatsoever. It was apparent from the submissions he made to me at this sentencing hearing that he refuses to accept any of my findings of contempt, and he continues to insist that his legal analysis

is correct. Of course, Dr Wright has the automatic right to appeal to the Court of Appeal against my findings of contempt and the sentence I imposed on him.

41. It follows that Dr Wright made no apology for his actions. He seems pathologically incapable of accepting responsibility for his misconduct. Rather than accepting responsibility and taking steps to mitigate the effects of his actions, Dr Wright's response has been to double down on his efforts to pursue and publicise massive claims against his perceived opponents at any cost. His occasional attempts to blame others have generally been implausible (such as blaming "*the Metanet people*" for the allegation of judicial bias in the "Threats" document which he submitted to Court).

The remaining Crosland Principles.

42. Principle 2 – consideration whether a fine would be a sufficient penalty: Having regard to all the matters addressed above, it is COPA's submission that Dr Wright's contempts are so serious that only a custodial penalty will suffice. Even if Dr Wright were to pay a fine (which is far from certain), it is plain that this penalty would not influence his actions. After all, he has faced adverse costs orders in excess of £10 million already, and those did not deter him from issuing the New Claim and seeking to involve over 100 companies and individuals as defendants. Furthermore, if Dr Wright proves now to be of limited means, the effect of imposing a fine might be to deprive COPA and SquareUp of their ability to recover costs against him.

43. Principle 3 – consideration of the shortest period of imprisonment which properly reflects the seriousness of the contempt: In view of the guidance discussed above, breach of an anti-suit injunction by a party with knowledge of the order and the consequences of breach will always be a serious matter, typically meriting a substantial custodial sentence. Here, Dr Wright breached a series of provisions of the Order; did so in a way which was calculated to cause maximum cost and distress to others; rejected opportunities to mitigate his contempt; compounded the effects of his conduct; and has shown no remorse whatever. COPA submitted that, when all these aggravating factors are taken into account, a term of two years is appropriate, although with six months to be removed if Dr Wright promptly discontinued the New Claim. While two years is the maximum term, the court is reminded of (a) the point made in *McKendrick* (cited above) that it is still comparatively short and (b) the repeated statements of the courts (also cited above) that the maximum term accordingly covers a broad range of conduct.

44. At this stage, it is also important to keep in mind the dual purpose of sentencing for contempt: to punish for past contempt, and to secure compliance (see *Lightfoot v Lightfoot*, cited in *Business Mortgage Finance 4*, and *Solodchenko* (all as above)). Taking a strict view, once a prohibitory order (such as an anti-suit injunction) has been breached, it is too late for compliance: the horse has already bolted, and harm has been done. However, Dr Wright's continued pursuit of the prohibited claims have continuing harmful effects, so that his discontinuance of those claims would mitigate the effects of his contempt. This consideration, in COPA's submission, would justify apportioning six months of

the sentence to the compliance element, with the remainder as the punitive element.

45. Principle 4 – due weight to matters of mitigation, including remorse, previous good character, etc: As already submitted, Dr Wright cannot claim to have shown any sincere remorse: instead, his pursuit of the New Claim has been remorseless. Neither can he claim a reduction for good character. Although he has not been found in contempt previously in this jurisdiction, he has been the subject of extensive findings of dishonesty in this country (notably in the Joint Trial judgment, but also in the decision of Arnold LJ on appeal and in the main judgment in *Wright v McCormack* [2022] EWHC 2068 (QB)). Such matters are sufficient to negative a claim to good character in this context: see *Lim v Ong* (cited above) at [65].

46. COPA submitted that it is not aware of any special factors of personal mitigation that militate against the imposition of a substantial sentence. To COPA's knowledge, Dr Wright does not have dependent children or other caring responsibilities (see Sherrell Affidavit 3, para. 22), and he has not provided evidence of any such responsibilities.

47. When considering the effects of imprisonment on Dr Wright, COPA submitted that I should have regard to the relevant provisions of the Prison Rules 1999 governing the treatment of those committed to prison for contempt. In particular, under rule 7(3), those committed for contempt are treated as a special class of prisoners and accorded the same privileges as an unconvicted prisoner under various rules (including being allowed to wear their own clothing, to receive medical visits with few limitations and to have much greater rights of correspondence and visits). Having regard to these matters, COPA argued that I should not be deterred by any attempt by Dr Wright to argue that his ASD condition is a reason not to impose the custodial sentence that would otherwise be appropriate to his contempts.

48. Principle 5 – the impact of committal on persons other than the contemnor, such as children or vulnerable adults in their care: As noted above, this is not a significant factor in the present case, since Dr Wright does not have dependent children and there is no evidence that he cares for any vulnerable adults. His imprisonment would no doubt have an adverse effect upon his wife, but it is very often the case that a contemnor will have a partner who would suffer such effects.

49. Principle 6 – reduction for any early admission of contempt: This consideration does not apply in the present case, as there has been no admission.

50. Principle 7 – consideration of whether the term should be suspended and whether there is any "*powerful factor making suspension appropriate*": In some cases, suspension may be appropriate, such as where it serves as a first step to secure compliance with an order, where there is cogent personal mitigation or where imprisonment would be particularly harmful to the contemnor's dependents. Here, COPA submitted that there is here no case-specific factor to justify suspension: Dr Wright has already breached the Order, and there is no strong personal mitigation.

51. COPA also submitted that, whilst the Court should have regard to the current state of overcrowding in prisons at this stage, that consideration will only usually bear on the decision if otherwise the sentence would be short and suspension were seriously in prospect. Moreover, as noted above, the Court of Appeal has recently stressed in *Ahmad v Ouajjou* that the current prison population is not a valid reason against imposing a substantial custodial term where it is otherwise justified.

52. Overall, COPA submitted that a suspended sentence would neither reflect the seriousness of the breaches nor be likely to secure any mitigating action by Dr Wright. He has had ample opportunity to withdraw the New Claim, but he has not done so, even as a contempt hearing in person has become an imminent reality. On the contrary, as pointed out above, after issuing the New Claim, he resorted to X (Twitter) with the most combative statements of intent: "*There's only one way to stop me, and it's to get out of the way*"; "*I fight. I fight like hell, and I don't stop*"; and "*Wanna fight, I am ready, let's go*" **[B/1/20-21]**. He has not changed course since then. On this basis, COPA submitted that only an immediate and meaningful custodial sentence would be appropriate as punishment, deterrent and incentive to future compliance.

53. For all these reasons, COPA's submission was that the seriousness of Dr Wright's conduct justified an immediate custodial sentence at the top end of the court's sentencing range. COPA submitted that the appropriate sentence would be for an unconditional term of imprisonment of 18 months, followed by a further term of six months if Dr Wright does not promptly discontinue the New Claim. Such a sentence, so COPA submitted, would properly recognise principles of punishment and deterrence while incentivising Dr Wright to mitigate the ongoing consequences of his contempt to the extent possible.

Analysis and conclusions

54. As has been the case throughout this litigation, the submissions made by COPA were measured and appropriate. I fully accept the principle stated in the cases that '*Breach of a court order is always serious, because it undermines the administration of justice*.' That was precisely the effect of Dr Wright's contempts which I have found proved.

55. I also recognise the force of COPA's analysis of the three cases involving breach of anti-suit injunctions. However, there is one particular factor to recognise in the three cases involved.

56. In *Trafigura*, the contempts found proved were (a) breach of an anti-suit injunction by the commencement of proceedings in Abu Dhabi and (b) breaches of the disclosure provisions in worldwide freezing orders. As Teare J. held in that case at [19]:

> "Those orders are made to assist in justly determining claims brought before this court by claimants. It is necessary that they be obeyed in order that justice can properly be administered. The consequences of the breaches in this case, particularly the breaches of the freezing order, are to frustrate the attempts by the

> claimants to enforce the orders of the court. The sums for which the claimants have obtained judgment are very substantial."

57. In particular, the claimants had obtained judgment in the order of US$90m. Teare J. imposed a period of committal of the individual responsible of 12 months in respect of each injunction broken, with the sentences being concurrent.

58. In *Mobile Communications*, the defendant, Prince Hussam, was a senior member of the Saudi royal family. The dispute between the claimant and the defendant concerned a loan agreement which contained an arbitration clause. An arbitral tribunal in London was appointed by the LCIA. The defendant fully participated in the arbitration and lost, and he also lost a s.68 application.

59. Some proceedings concerning the loan agreement in Saudi Arabia were then revived and came to the attention of the claimant, which sought and was granted an anti-suit injunction, the effect of which was to require the defendant no longer to pursue his Saudi proceedings. Those proceedings continued, whereupon the claimant secured a final mandatory order requiring the defendant to discontinue or withdraw or procure the dismissal of the Saudi proceedings.

60. The defendant was clearly well aware of the anti-suit injunction(s) and flagrantly flouted them, pursuing the Saudi proceedings to a judgment in which the Saudi court ruled contrary to the ruling of the LCIA tribunal. Jacobs J. found the defendant in serious contempt of the anti-suit injunctions.

61. When considering the appropriate sentence, Jacobs J. referred to *Trafigura*, citing [19] as set out above and then set out the considerations which weighed with him in the case before him, which I find instructive:

> '31 First of all, there were, in my view, deliberate breaches of the order. There were serious breaches, and they were designed to enable Prince Hussam to flout the London arbitration award in his favour. They also flouted the decisions of the court reflected in its orders in May 2018 that he should not pursue his Saudi proceedings, which were of course designed to reverse the awards which had been made against him.
>
> 32 Secondly, it is, as I have said, important generally to give effect to anti-suit injunctions. They fulfil a very valuable role in the context of civil litigation in this country and they preserve the due process of London arbitration but, more importantly, the rights of parties such as the claimants who both obtained valid awards.
>
> 33 Thirdly, it is clear to me that there is no practical alternative to imprisonment. A fine will, if I impose it, simply be ignored. It is only imprisonment which will bring the seriousness of what Prince Hussam has done to his attention, and it is only imprisonment which may possibly have any impact upon how matters proceed in the future.'

62. It is not clear from the judgment whether the defendant was in the jurisdiction such that he was committed to prison or whether he faced the prospect of imprisonment if or when he returned to the jurisdiction, but I detect that at least part of the reason for the sentence of imprisonment was to encourage compliance with the anti-suit injunction by the withdrawal of the Saudi proceedings or, if no compliance was secured, as punishment for the flagrant breach of the court's orders.

63. As COPA submitted in relation to the case of *Dell Emerging Markets*, two defendants were committed for 18 months and two for 9 months for breaching anti-suit injunctions (interim and final). In relation to each defendant, Henshaw J gave a non-binding indication that the court would be likely to give favourable consideration to remitting half of their sentence if they were promptly to discontinue the offending proceedings.

64. The contempts found in that case consisted of the respondents' breaches of interim and final anti-suit injunctions restraining the pursuit of proceedings brought by the first respondent, a Lebanese company referred to as SETS, against Dell in Lebanon. The second to fifth respondents were members of SETS' board of directors and between them owned 100% of the shares in SETS. Henshaw J. found the second to fifth respondents wilfully caused and permitted SETS to commit and wilfully failed to take reasonable steps to prevent SETS from committing the breaches of the anti-suit injunctions.

65. Those three cases involved what might be termed the typical case where the anti-suit injunctions were granted to restrain the bringing or pursuit of proceedings in a foreign jurisdiction. In such cases, the only power the English court has is *in personam* against the litigant in question. The English court has no *direct* power to regulate the proceedings in a foreign jurisdiction.

66. There is a similar dynamic in those cases involving breaches of freezing injunctions and associated disclosure orders. Leaving aside tracing remedies, the Court does not have *direct* powers over the frozen assets or to compel disclosure of information other than by way of *in personam* orders against the litigant in question.

67. Although the anti-suit injunctions in this case extended worldwide, the breaches concern the New Claim which was, of course, brought in this jurisdiction. For that reason, the New Claim is directly under the power of this Court. This, it seems to me, is a very significant difference between this case and the three cases involving breach of anti-suit injunctions and/or freezing injunctions drawn to my attention by COPA.

68. The New Claim was brought, as I have found, in breach of the Order. The whole of the New Claim is plainly an abuse of the process of the Court. I have power under CPR3.3 and 3.4 to strike out the New Claim as an abuse of the process and the existence of this power was not disputed by Dr Wright. I exercise that power to strike out the Particulars of Claim in the New Claim and, indeed, the whole of the New Claim. The exercise of that power significantly ameliorates the harmful effects which the New Claim will have had on those targeted as

defendants to the New Claim by Dr Wright, along with the confirmation from this hearing that the Order will be fully enforced against Dr Wright.

69. However, I do not consider that my striking out of the New Claim adequately reflects the full seriousness of the contempts committed by Dr Wright. In the circumstances there is a strong need to deter Dr Wright from attempting to bring or threatening any further proceedings which fall within the definition of Precluded Proceedings in the Order, and also to punish what I have found to be his flagrant breaches of the Order.

70. Depending on the circumstances, a sentence for contempt of court has elements of punishment, coercion and deterrence.

71. In the particular circumstances of this case, a particular concern which has weighed with me concerns the fact that Dr Wright is not in the jurisdiction of the Court and does not appear willing to return to the UK in the short or medium term.

72. In short, I am referring to what I see as the likelihood that Dr Wright is able to continue to avoid the consequences of any sanction which this Court imposes on him by way of a fine or a sentence of imprisonment. He can avoid the consequences of either simply by continuing to base himself abroad, and possibly in a country with whom the UK does not have extradition arrangements.

73. I keep in mind all of COPA's submissions as to the seriousness of contempts which I have found Dr Wright has committed. He expresses no remorse whatsoever. Indeed in his submissions to me today he has continued to argue and rely upon his contentions as to the law, particularly in relation to promissory estoppel which can only be described as legal nonsense. In this regard, his behaviour is of a piece with his claims to be Satoshi Nakamoto. Dr Wright is a fantasist who refuses to accept any view which conflicts with his own, however irrational his view may be. So, even if I were to assume that Dr Wright may have managed to convince himself that his New Claim was not in breach of the Order, there is no doubt in my mind that he was, at the very least, reckless as to whether his New Claim was in breach of the Order. However, I make it clear that I specifically endorse and adopt as findings the submissions recorded in paragraphs 27 and 28 above.

74. In these circumstances, my principal concern is to ensure that the Order I made on 16 July 2024 is observed and is continued to be observed in the future. So my aim, having found serious contempts proved, is to impose sanctions which will impact on Dr Wright.

75. In terms of future compliance with the Order, I wish to impose a sentence which will deter Dr Wright from further breach as far as possible.

76. Bearing in mind all the guidance in the caselaw to which my attention has been directed, I have concluded that I should impose a custodial sentence on Dr Wright. In my judgment, the appropriate sentence for the contempts I found

proved is a term of imprisonment of Dr Wright of 12 months, suspended for two years.

Suspension of a custodial sentence

77. After I had indicated I proposed to suspend the sentence of 12 months imprisonment for 2 years, COPA correctly reminded me that I needed to set out the conduct which would cause the custodial sentence to be activated. COPA drew my attention to a number of cases in which various terms of suspension were specified. Although each case must turn on its own particular facts, it was nonetheless to review the examples which COPA provided to me. In summary these were:

    i) *Addou v Bennabi* [2024] EWHC 2702 (Fam) at para. 15: The respondent, who was responsible for removing a child from the jurisdiction, was made subject to a sentence that was suspended on terms that it would not take effect if he returned the child to the jurisdiction in a set time.

    ii) *Tonstate Group Ltd v Wojakovski* [2023] EWHC 3447 (Ch) at paras. 46-48: The defendant, who was in contempt for dealing in assets contrary to a court order, was made subject to a sentence that was suspended on terms that it would be activated if he breached any court order in the actions within a period of one year. However, I note that at [46] Edwin Johnson J. specifically exempted (a) any breach of an order to pay costs and (b) any breach of a case management direction.

    iii) *Deutsche Bank AG v Sebastian Holdings Inc* [2023] EWHC 2563 (Comm), 4 WLR 76 at para. 32: The second defendant, who was in contempt for failing to comply with asset disclosure orders, was made subject to a sentence that was suspended on terms that it would not take effect if he complied with a series of very detailed provisions requiring further disclosure.

    iv) *Dattani v Rasheed* [2022] EWHC 3671 (Ch) at para. 11: The first defendant, who was in contempt for failing properly to comply with an order for provision of information about proceeds of sale of an asset, was made subject to a sentence that was suspended on terms which included included (i) that he provide the requisite information and (ii) that he comply with all further orders which the court should make for a period of one year.

78. On the basis of those examples, COPA suggested the sentence should be suspended on terms that it will be activated if:

    i) Dr Wright commits any further breach of the order of 16 July 2024; or

    ii) Dr Wright commits any breach of the order which the Court is now making on the contempt application (including failure to pay costs as required).

Decision

79. It is of course correct that the sentence I pass must be clear in its terms. The term of imprisonment of 12 months is suspended for two years on condition that in that two year period Dr Wright commits no further breach of the Order dated 16 July 2024. So the term of imprisonment will be activated if Dr Wright commits any further breach of the Order dated 16 July 2024 in that two year period. To be clear, the two year period runs from 19 December 2024.

80. I do not consider it is necessary or desirable to impose the second condition proposed by COPA. Furthermore, I have strong doubts whether it would be lawful to do so, since a failure to pay a sum of money is not, to my understanding, punishable by a term of imprisonment.

Costs

81. I will also order Dr Wright to pay COPA's costs of this Contempt Application and of the New Claim on the indemnity basis.

82. I have been presented with a revised schedule of COPA's costs of this Contempt Application which total some £169,354, a total which appears to me to be reasonable and proportionate in all the circumstances. I therefore order Dr Wright to pay an interim payment on account of those costs within 14 days in the sum of £145,000.

83. I also order Dr Wright to pay SquareUp's costs of the New Claim on the indemnity basis. I granted permission to SquareUp to file a schedule of their costs and I will determine the payment of an appropriate sum by way of interim payment or summary assessment once Dr Wright has had the opportunity to make any submissions in relation to it.

84. I ask the parties to draw up and seek to agree an Order giving effect to this Judgment.

Mr Paul Lamb's Application

85. The final point to deal with is an application by Mr Paul Lamb to be joined to the New Claim. He has served no less than six witness statements in support. It will be recalled that I rejected his application to be joined to the COPA claim at the Identity Issue Trial. However, since the New Claim is struck out, Mr Lamb's current application falls away and I make no order on his application.