



Neutral Citation Number: [2021] EWHC 1021 (Ch)

Case No: BL-2020-002027

**IN THE HIGH COURT OF JUSTICE**  
**BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES**  
**INTERIM APPLICATIONS LIST (ChD)**

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

Date: 23/4/2021

**Before :**

**MR DAVID HALPERN QC SITTING AS A DEPUTY HIGH COURT JUDGE**

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**Between :**

**(1) SYED AHMED** **Claimants**  
**(2) PANACHE LEASING LIMITED**  
**trading as 5 Star PCO Rentals**

**- and -**

**TIPU SULTAN AHMED** **Defendant**

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**Kamar Uddin** (instructed by **Z Legal Solicitors**) for the **Claimants**  
**Anwar Miah** (instructed by **Sony Sadaf Haroon Solicitors**) for the **Defendant**

Hearing date: 22/4/2021  
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**Approved Judgment**

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

This judgment was handed down by the Judge remotely by circulation to the parties' representatives by email and release to BAILII. The date and time for hand-down is deemed to be 23/4/2021 at 10.30am.

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**MR DAVID HALPERN QC SITTING AS A DEPUTY HIGH COURT JUDGE**

## Mr David Halpern QC :

1. This is a dispute between two brothers, the First Claimant Syed Ahmed and the Defendant Tipu Sultan Ahmed. (Without meaning any disrespect, I shall refer to them as “**Syed**” and “**Tipu**”.) Syed is the director and 100% shareholder in Panache Leasing Ltd, the Second Claimant (“**Panache**”), which runs a successful car leasing business.
2. In short, Syed and Panache claim that Tipu, who used to work for Panache, has misappropriated large sums of money as well as assets belonging to the Company, whilst Tipu counterclaims, saying that Syed holds 50% of the shares in Panache on constructive trust for him.
3. The proceedings, which only started in November 2020, have already spawned a number of interim hearings between the parties, which appear to be have been characterised by point-scoring on each side, without either party making any real attempt to narrow the issues or assist the court in accordance with the overriding objective of the Civil Procedure Rules.
4. I was allocated a day on 21 April to read the papers, which include the Claimants’ bundle of 747 pages. There was no skeleton argument from either counsel. After spending some time reading this bundle, I guessed that the application before me was the Claimant’s application of 25 January which begins on page 189 of the bundle. After the court chased Mr Kamar Uddin, who appears for the Claimants, he asked at 14:27 if he could submit his skeleton by 22:00. The court told him that this was unacceptable and his skeleton was then received at 15:19.
5. Mr Uddin’s skeleton does not comply with the Chancery Guide (paragraphs 21.73 to 21.84) and it did little to assist me in preparing for this hearing. It opens with a section headed “Issues” but these are the some (not all) of the underlying issues arising in the proceedings, not the issues which I am being asked to decide at this hearing. There is no chronology and no reading list.
6. Mr Anawar Miah appears for the Defendant. His skeleton argument was not emailed to the court until 18:10, by which time, of course, the court office was shut. I received it at 09:18 yesterday morning, just over one hour before the start of the hearing. This skeleton argument contained a reading list which he estimated it would take me two hours to read. It referred to an application issued by the Defendant on 20 April 2021. That application was in a separate bundle and was not referred to in the Claimant’s bundle.
7. Mr Miah sought to explain his non-compliance with the Chancery Guide by saying that there was a delay on the part of the Claimants’ solicitors in sending the bundle to him and that the bundle omitted a number of documents which had previously been before the court; Mr Uddin denied that his solicitors were at fault. Mr Miah also explained that he was briefed only yesterday. I see from his solicitor’s website that he is married to the senior partner and is described as a consultant to the firm; I note that he did not tell me that he was unaware of the case before yesterday.
8. The skeleton arguments have given me very little help in understanding what I am being asked to decide or how I am to decide it, having regard to the *American Cyanamid* test. The witness statements are not much more

informative, consisting as they do of sweeping allegations and counter-allegations. It may be that there is more material in them than I was able to find in the time available, but if so neither counsel pointed me to it. I have to piece the history together as best I can from the previous orders that have been made. I was told that the only judgment given was an oral judgment given by Adam Johnson J on 16 February 2021, of which no transcript is available.

9. The proceedings kicked off with an application by the Claimants to Roth J. On 17 November 2020 he made an order restraining Tipu (inter alia) from entering Panache's premises or accessing its bank account or computers and requiring him to hand over keys, passwords and log-in details.
10. On 8 December 2020 the Defendant made an application to Mann J, who varied the order for costs which Roth J had made in the Claimants' favour, but otherwise continued his order. Mann J's order records an undertaking by both Claimants to supply Tipu weekly with documents relating to Panache's business and monthly with financial documents relating to the business. It would appear from Mann J's order that he viewed the undertakings as necessary to hold the ring between the parties. Both counsel agreed with me that this appeared to be the court's thinking at the time, and that is the approach which I should adopt at this hearing, given that I am in no position to decide the underlying dispute.
11. Mann J ordered the Claimants to issue and serve their Claim Form (which presumably should have been issued on or immediately after 17 November) and made an "unless" order that the injunction in the Claimants' favour be discharged unless this was done next day. He gave directions for the filing of evidence and for the Defendant's application to come back to court thereafter.
12. On 25 January 2021 the Claimants issued the application which is now before me, seeking to have the Defendant committed to prison for contempt in having breached the order made by Roth J and continued by Mann J, and also seeking further interim relief. This application came before Adam Johnson J on 4 February 2021. He dismissed the committal application. It appears that he did so because of the failure of the Claimants' legal advisers to comply with the strict procedural requirements in CPR Part 81 for committal applications. He adjourned the balance of the Claimants' application to 16 February, which was the return date on the Defendant's application to discharge the original injunction.
13. On 16 February 2021 Adam Johnson J dismissed the Defendant's application to discharge the original injunction and he adjourned the balance of the Claimant's application of 25 January 2021. This is the hearing of that adjourned application.
14. Finally, on 20 April 2021 the Defendant issued an application requiring the Claimants to comply with the undertakings given to Mann J, failing which the injunction in their favour should be discharged.

15. During the hearing I adjourned for half an hour to see if counsel were able to narrow, or at least define, the issues for the hearing, in accordance with the level of cooperation which the court is entitled to expect from the Bar. They failed to reach any agreement. I therefore have to do the best I can. It is all too tempting to say “a plague on both your houses”, but it is clearly important to all the parties to devise an order which will hold the ring as far as possible until trial, and it is important to protect the court by putting in place a regime which, as far as possible, will discourage the parties further interim applications and further time-wasting.
16. It is convenient to begin with the Defendant’s application of 20 April. Mr Uddin says that he needs time for his client to make a witness statement in response to the allegations that have been made. That is a reasonable request. Mr Miah suggested that the order which he seeks might no longer be necessary, but he was unable to confirm this. Accordingly, whilst not wishing to encourage further interim applications, I shall adjourn this application and will order a timetable for further evidence.
17. Turning to the balance of the Claimants’ application of 25 January, they seek relief under seven heads. The first and second heads relate to modest sums of money which they say have been taken or retained by Tipu in breach of Roth J’s order. Doing the best I can with the inadequate witness statements, it seems that Tipu admits having all or some of these sums but says that he is entitled to them. In the absence of oral evidence, I am unable to reach a decision on that issue and I therefore dismiss the application. The Claimants continue to have the protection given by the order made by Roth J and continued by Mann J, and I see no basis on which I can properly go any further.
18. The third head relates to some CCTV equipment belonging to Panache which the Claimants say that the Defendant is holding. Mr Miah told me that his client denies having it. Tipu should, of course, have dealt with this in his witness statement but did not. I shall order him to return the equipment if he has it, or if not, to make a further witness statement saying that he does not have it and setting out his knowledge, if any, of what has happened to it.
19. The fourth head is an order to provide log-in and password details for the Paypal account used by Panache. Syed has exhibited a document purporting to show the Paypal account in the name of Panache, but Tipu says that the document is a forgery and that the Paypal account was in the name of Alpha German Car Parts Ltd (“AGCP”), who permitted Panache to use it. Tipu’s witness statement does not explain AGCP’s connection with himself or with Panache, but Mr Miah told me that Tipu used to work for AGCP, which was dissolved in September 2020. Mr Miah accepted that his client had no ongoing interest in the Paypal account but said that the account had closed when AGCP was dissolved. I was shown proof that AGCP was struck off the Register on 13 September 2020 and dissolved on 22 September 2020, but I have seen no evidence of the closure of the Paypal account. Mr Uddin showed

me some statements relating to Panache's bank account which show payments to Paypal, although none post-date the dissolution. I am clearly unable to resolve the issue of ownership of the account today, but I will order the Defendant to state in his further witness statement what has become of the Paypal account and to provide the most recent log-in details and password which he had before the account was terminated.

20. The fifth head is an order to provide the master password for what is said to be Panache's email domain. Mr Uddin explained that Panache needs this information for its business, since otherwise it cannot make any changes to its website. I put it to Mr Miah that Tipu's case is that he is entitled to 50% of the business and that it is therefore in his interest that Panache should be able to trade profitably. Mr Miah did not demur, but he said that his client would suffer if Syed changed the password or log-in details, since that would prevent Tipu from monitoring the business. In order to hold the ring between both parties pending trial, I order that Tipu's further witness statement shall provide the Claimants with the current log-in and master password for the domain, and that neither party changes the log-in and master password without further order.
21. The sixth head is an order to disclose the log-in and password for the Money Claim online portal of HMCTS. I am told that this is on-line service used by Panache for chasing default debtors. Tipu has said in his witness statement that he does not have these details. I shall therefore order him in his further witness statement to state the last user name, address, log-in details and password (if any) known to him.
22. The final head is the return of "*the cash payment received receipt*" which Tipu is said to have taken after service of the injunction on 17 November 2020. Mr Uddin explained that this was a reference to the documentary evidence which Panache would make of cash received in the business. Tipu's third witness statement does not address this directly, but at paragraph 25 he said "*I have the full weekly record for the periods from 2017 to Oct 2020*" and he exhibited a sample report from 23 to 29 November 2019. Mr Uddin says that this full weekly record is clearly Panache's document and should be handed over. Mr Miah took the point that the Claimants had not made an application for delivery up, but he agreed that his client had no legitimate reason for keeping documents belonging to Panache. Mr Miah's objection was to his client being compelled to hand over the weekly records in the absence of an application to do so, but he said that his client would undertake to do so, and I accept that undertaking. I see no objection to Tipu making a copy of the records before handing them over; that is within the spirit of the order made by Mann J. This still leaves the issue of the document referred to in the application, which is described in paragraph 9 of the witness statement made by Faku Jamin Uddin, an employee of Panache, as an "*invoice book*". Tipu denies having it. I shall therefore order him to state in his further witness statement whether he has ever had it, and (whether or not he has ever had it) to state his knowledge (if any) as to what has become of it.

23. In view of the lamentable way in which both these applications have been prepared, I disallow all the costs of today. There will be no order as to the costs of the Claimant's application of 25 January 2021 (save insofar as previously ordered); for the avoidance of doubt, there will be no order in respect of the costs reserved by Mann J and by Adam Johnson J. There will be no order as to the costs of the Defendant's application of 20 April 2021 down to today. If that application remains a live issue, the future costs will be determined at any future hearing.
24. If any further applications are made to the Interim Applications Court (including any further hearing of the Defendant's current application), the parties are to draw this judgment to the attention of the Judge. I also direct that the parties are to draw this judgment to the attention of the Master at any Case Management Conference.