



Neutral Citation Number: [2019] EWHC 2929 (QB)

Case No: HQ18X03308

**IN THE HIGH COURT OF JUSTICE**  
**QUEEN'S BENCH DIVISION**

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 1 November 2019

Before :

**THE HONOURABLE MR JUSTICE MURRAY**

Between :

**ASPINALL'S CLUB LIMITED**

**Claimant**

- and -

**HAN JOEH LIM**

**Defendant**

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**Mr Alexander Robson** (instructed by **BlackLion Law LLP**) for the **Claimant**  
**Mr Lawrence Power** (direct access) for the **Defendant**

Hearing date: 24 October 2019  
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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.

.....  
**THE HONOURABLE MR JUSTICE MURRAY**

**Mr Justice Murray :**

1. This is an application made on 20 August 2019 by the defendant, Mr Han Joeh Lim (“the Defendant’s Application”) for:
  - i) a declaration that he has complied with his obligations under an order that I made on 5 August 2019 (“the Murray Order”), following a committal hearing on 23 July 2019, which was adjourned to 5 August 2019 for judgment; or
  - ii) in the alternative, an order to grant relief from sanctions pursuant to CPR 3.9.
2. In my judgment given at the hearing on 5 August 2019 ([2019] EWHC 2379 (QB)) I set out my reasons for finding that Mr Lim had breached the terms of freezing orders with disclosure provisions that had been made by Andrew Baker J on 19 September 2018 (“the Andrew Baker Order”) and by Jon Turner QC on 20 November 2018 (“the Turner Order”), respectively. I found that four Grounds of Committal in the committal application dated 18 February 2019 (“the Committal Application”) of the claimant, Aspinall’s Club Limited (“Aspinalls”), had been established to the criminal standard of proof. I also found that Mr Lim had given me deliberately dishonest oral evidence during the hearing on 23 July 2019 during the course of cross-examination by Mr Alexander Robson, counsel for Aspinalls.
3. Having found that Mr Lim was in contempt of court by virtue of four breaches of the Andrew Baker Order and/or the Turner Order, I concluded, for reasons given in my judgment, that the custody threshold had not been passed, and that a fine for each breach was the appropriate sentence.
4. In relation to one breach, I imposed a fine of £25,000. I found that that breach could not be cured, and the contempt could therefore not be purged. The entire fine was therefore punitive. There was no coercive element.
5. In relation to each of the other three breaches, which involved disclosure failures by Mr Lim, I imposed a fine of £25,000 for each breach, and indicated that each fine was composed of a punitive element of £10,000 and a coercive element of £15,000. In other words, in relation to each such breach, if Mr Lim fully remedied the relevant disclosure failure by 4:00 pm on Friday, 16 August 2019, then the fine to be paid in relation to that breach would only be £10,000.
6. The sentence I imposed on Mr Lim on 5 August 2019 was therefore a total fine of £100,000, which would be reduced to £55,000 if he fully remedied his disclosure failures in relation to the three breaches I have just mentioned.
7. In order to assist Mr Lim in understanding what he needed to disclose in order to remedy his disclosure failures, Mr Robson and Mr Lawrence Power, counsel for Mr Lim, agreed a list of the matters to be addressed by Mr Lim in the affidavit that he was required to deliver. The agreed list was set out in Schedule 2 to the Murray Order. To reinforce the terms of the Murray Order, I also made an unless order, which was set out in para 1 of the Murray Order (“the Unless Order”). I will describe that in more detail in a moment.

8. By the Defendant's Application, Mr Lim sought a declaration that he had complied with the terms of the Murray Order, and that he was entitled to pay the reduced fine of £55,000. In opposition to the Defendant's Application, Aspinalls contended that Mr Lim had failed to comply with the relevant provisions of the Murray Order, and therefore the Unless Order was engaged, Mr Lim's Defence stood struck out without further order and judgment should be entered for Aspinalls.
9. At the conclusion of the hearing of the Defendant's Application, I ruled that Mr Lim had failed to comply with the terms of the Murray Order, and therefore I refused the declaration sought. I also refused Mr Lim's application for relief from sanctions.
10. The effect of my rulings is that Mr Lim is required to pay the balance of the full fine of £100,000 (meaning a further payment of £45,000) and the Unless Order has taken effect, with the consequences that Mr Lim's Defence is struck out and judgment is to be entered for the claimant. I indicated that I would provide after the hearing a short written judgment setting out my reasons for my rulings. This is that written judgment.

*The background*

11. My judgment of 5 August 2019 sets out the background of this matter in somewhat more detail than is necessary for present purposes. In brief, this matter concerns a claim by Aspinalls to recover a debt in the sum of £1,995,437 or, alternatively, as damages for Mr Lim's failure to repay a loan made to him or credit extended to him in relation to a period of gambling in October 2015 at a gaming club known as "Aspinall's" ("the Club") operated by the claimant at premises in Curzon Street in the West End of London.
12. Mr Lim is a successful Malaysian businessman who is currently 60 years old. He was a member of the Club pursuant to a membership agreement entered into on or about 13 January 2014.
13. Aspinalls issued its claim against Mr Lim on 18 September 2018. On the following day it obtained, on a without notice application, the Andrew Baker Order, which was a freezing injunction against Mr Lim, prohibiting him from removing from England and Wales any of his assets up to the value of £2.5 million or from disposing of, dealing with or diminishing the value of any of his assets whether in or outside of England and Wales up to the same value.
14. The Andrew Baker Order also required Mr Lim to provide information concerning all of his assets worldwide exceeding £20,000 in value whether in his own name or not and whether solely or jointly owned, giving the value, the location and details of all such assets. The Andrew Baker Order included standard exceptions and standard cross-undertakings by Aspinalls. The exceptions to the Andrew Baker Order included permitting Mr Lim to spend £5,000 per week towards his ordinary living expenses and a reasonable sum for legal advice and representation but subject to the precondition that he disclose the source of his money to cover those expenses.
15. The return date for the Andrew Baker Order was listed before Mr Jon Turner QC sitting as a Deputy Judge of the High Court on 20 November 2018, resulting in the Turner Order, which continued the substantive provisions of the Andrew Baker Order, both as to freezing of assets and as to disclosure.

16. As I have already noted, I heard the Committal Application on 23 July 2019, gave judgment on 5 August 2019 and then made the Murray Order.

*The Murray Order*

17. The key provisions of the Murray Order for the purposes of this application are paras 1 (the Unless Order), 4 and 5, which provide as follows:

“1. Unless the Respondent complies with both paragraphs 4 and 7 of this Order, his Defence shall be struck out without further Order and Judgment shall be entered for the Claimant.

...

4. The Respondent shall, by 4pm on 16 August 2019, file and serve on the Applicant’s solicitors a signed and sworn affidavit providing the particulars set out at Schedule 2 to the Order.

5. By 4pm on 22 August 2019 the Applicant’s solicitors shall confirm in writing to the Respondent or, if on the record, his solicitors, whether, to the best of its belief at that time, the Applicant agrees that the Respondent has complied with paragraph 4 of this Order.

...”

18. Para 2 of the Murray Order set out the fines that I imposed, as I have already described, and para 3 provided that if Mr Lim complied with para 4 in full, the total amount of the fine would be £55,000 rather than £100,000.

19. Para 7 of the Murray Order, referred to in the Unless Order, awarded the claimant the costs of a hearing that had taken place before Swift J on 19 March 2019, the costs of the Committal Application and the costs of an unsuccessful strike-out application that had been made by Mr Lim, which I had heard at the same time as the Committal Application. These costs were subsequently paid by Mr Lim, on time, in accordance with the Murray Order. No issue therefore arises in relation to that part of the Unless Order.

20. Schedule 2 of the Murray Order provides in relevant part as follows:

“ SCHEDULE 2:

PARTICULARS OF MATTERS TO BE ADDRESSED BY  
THE RESPONDENT BY SIGNED AND SWORN  
AFFIDAVIT PURSUANT TO JUDGMENT DATED 5.8.19

...

- (3) For the period from 18 September 2018 to the date of D’s Affidavit to be supplied pursuant to this Order:

- a. From which bank account(s) has D been withdrawing monies for the purposes of meeting his ordinary living expenses, (see (i) paragraph 11(1) of the Order of 19 September 2018; and (ii) paragraph 9(1) of the Order dated 20 November 2018)? What was the source of those monies?
- b. Insofar as D has spent monies which are not 'ordinary living expenses':
  - i. What has been spent, when and for what purpose?
  - ii. What was the source of those monies?
  - iii. From which bank account(s) have those monies been withdrawn?

Without limitation, D is to identify the bank account(s) from which the monies for the payment of the completion monies for the A55 Property were drawn, and the source of those monies.

- c. From which bank account(s) has money been transferred to D's solicitors in respect of D's legal costs in these proceedings, on what dates, and in what amount? What is the source of those monies?
  - d. Insofar as sub-paragraph (c) identifies bank accounts that are not owned or controlled by D:
    - i. Who owns or controls those bank accounts; and
    - ii. What was the source of the monies being used to pay D's solicitors?
    - iii. D is to confirm that the ultimate source of the funds is not himself, otherwise to identify the way in which the funds passed from him to the third party.
- (4) D having reviewed the content of his First to Fifth affidavits dated respectively 9 October 2018, 31 October 2018, 4 December 2018, 28 March 2019 and 21 June 2019, D shall confirm the truth of, or if and insofar as necessary correct, the content of the same."

*Procedural history following the Murray Order*

21. Before turning to consider the issues raised by the Defendant's Application, I note briefly the steps taken by the parties following the making of the Murray Order:

- i) On 8 August 2019 Mr Lim removed his solicitors, Chan Neill Solicitors, from the record and appointed his counsel, Mr Power, to conduct this litigation on his behalf.
- ii) On 14 August 2019 Mr Lim paid the costs orders in para 7 of the Murray Order.
- iii) On 16 August 2019 Mr Lim filed and served his sixth affidavit in these proceedings ("Lim 6"), purportedly in compliance with para 4 of the Murray Order.
- iv) Under para 5 of the Murray Order, by 4:00 pm on 22 August 2019, Aspinalls' solicitors, BlackLion Law LLP ("BLL"), were to confirm in writing to Mr Lim or, if on the record, his solicitors, whether, to the best of its belief at that time, Aspinalls agreed that Mr Lim had complied with para 4 of the Murray Order.
- v) On 20 August 2019 at 3:30 pm, BLL wrote to Mr Power stating that Aspinalls considered that Mr Lim had failed to comply with the requirement at para 3(d)(iii) of Schedule 2 to the Murray Order to confirm that the "ultimate source" of the funds is not himself. BLL expressly reserved its client's position in respect of further instances of non-compliance.
- vi) In response to BLL's letter of 20 August 2019, Mr Lim made the Defendant's Application on the same day at 4:23 pm.
- vii) On 21 August 2019 Mr Power wrote to Mr Stephen Jones in the Queen's Bench Associates Department requesting clarification as to the level of fine that was payable by Mr Lim. After referring in the first paragraph of his letter to the Murray Order, confirming in the second paragraph that his client was required by the Murray Order to serve on Aspinalls' solicitors a signed and sworn affidavit by 4:00 pm on 16 August 2019 and confirming in the third paragraph that this had been done and that BLL had confirmed receipt, Mr Power said the following in the fourth paragraph of the letter:

"I am trying to ascertain the level of fine that is payable by reference to paragraph 3 of the Order to ensure that my client pays the correct amount by 4pm on 27 August 2019. Given the service of the affidavit, is my client to pay the 'reduced fine' £55,000."

The fifth and final paragraph of the letter simply invited Mr Jones to contact Mr Power if he required further information. There was no mention in this letter that BLL, on behalf of Aspinalls, had written to Mr Power in accordance with para 5 of the Murray Order, as I have noted above, stating the claimant's position that Mr Lim had not complied with para 4 of the Murray Order.

- viii) On 22 August 2019, during a short break in another matter that I was hearing that morning, Ms Sanah Mohammed, a Queen's Bench associate, showed me a copy of Mr Power's letter of 21 August 2019 to Mr Jones and a copy of Lim 6 and asked me to confirm whether Mr Lim was entitled to pay the reduced fine of £55,000. I looked at both documents and then indicated to her that it appeared to me that Lim 6 was in compliance with the Murray Order. I was not, however, aware that BLL had written to Mr Power on 20 August 2019 stating the claimant's position that Lim 6 did not comply with the Murray Order.
- ix) On 22 August 2019 at 12:15, Ms Mohammed wrote to Mr Power stating:

“His Lordship is satisfied that Mr Lim has complied with the order, including the time for compliance, and therefore can pay the reduced fine of £55,000 as set out in paragraph 3 of the Order made on 5 August 2019.”

Ms Mohammed clarified at 12:32 on that day, in response to a query from Mr Power, that the reference to “His Lordship” was to me. At 12:59 Mr Power's clerk forwarded to BLL a copy of Mr Power's initial letter to Mr Jones seeking clarification. At 13:40 on that day Mr Power wrote to BLL as follows:

“... given that Mr Justice Murray is satisfied the Murray Order has been complied with, will you now unreservedly retract your position as set out in your letter dated 20 August.”

- x) On 23 August 2019 at 10:00 am, Mr Lim paid the amount of £55,000 to the court.
- xi) On 23 August 2019 at 11:30, the Defendant's Application was listed before Lambert J. In the claimant's skeleton argument for that hearing, BLL objected to Mr Power's letter to Mr Jones of 21 August 2019 as “misleading and disingenuous” and said that the letter provided “misleading or incomplete evidence”. Aspinalls objected to the letter's not having mentioned the claimant's position that Lim 6 was not compliant with the Murray Order and also complained that Mr Power's correspondence with the court had only been copied to BLL after I had given my indication that Lim 6 appeared to comply.
- xii) Lambert J referred the matter back to me, with directions for an exchange of evidence, for my consideration on the papers or as otherwise directed by me.
- xiii) I ordered that this matter be listed for a hearing of the Defendant's Application.
22. At the hearing before me, the foregoing history was rehearsed by Mr Power, but it was agreed by both parties that I was not bound by the indication I had given on 22 August 2019 that Lim 6 appeared to comply with the Murray Order and that I was

not required to rule on any specific issue arising out of this history, beyond the Defendant's Application.

23. On 23 August 2019 Mr Lim, taking the position that he had complied with the Murray Order and was therefore entitled to pay the reduced fine, paid £55,000 to the court.
24. On 28 August 2019 Mr Lim paid £2.5 million into court, pursuant to para 9(4)(a) of the Turner Order, as security for any damages and costs that might be awarded to Aspinalls in relation to its claim against Mr Lim. That payment had the effect of discharging the Turner Order.

#### *Evidence*

25. For this hearing, I had a witness statement of Ms Lara Robson, a solicitor advocate and consultant to BLL, dated 6 September 2019 and two witness statements of Mr Lim, dated 21 August 2019 and 20 September 2019, together with various exhibits to those witness statements, including Lim 6 and relevant correspondence. I also had transcripts of the hearings of 23 July, 5 August and 23 August 2019, to which I have already referred, as well as a transcript of my judgment on the Committal Application and my sentencing remarks on 5 August 2019 in relation to the four breaches that I found to have been established.

#### *The issues*

26. The overarching question raised by the Defendant's Application is whether Mr Lim has failed to comply with para 4 of the Murray Order, thereby engaging the Unless Order.
27. The claimant says that Mr Lim has failed to comply with para 4 of the Murray Order in two ways:
  - i) Mr Lim has failed to comply with para 3(d)(iii) of Schedule 2 to the Murray Order; and
  - ii) Mr Lim has failed to comply with para 4 of Schedule 2 to the Murray Order in that he has given false evidence, by falsely confirming his previous evidence that he had disclosed all of his assets worldwide that individually exceed "£20,000 in value whether in his own name or not and whether solely or jointly owned, giving the value, location and details of all such assets", as was required by para 9(1) of the Andrew Baker Order and para 7(1) of the Turner Order.

#### *Para 3(d)(iii) of Schedule 2 to the Murray Order*

28. One of my findings in relation to the Committal Application was recorded in para 3(2) of Schedule 1 to the Murray Order as follows:

"Contrary to paragraphs 11(1) of the Andrew Baker Order and paragraph 9(1) of the Turner Order, the Respondent has, since being served with the Andrew Baker Order through to the present time, failed properly in a sworn affidavit to inform the Claimant's legal representatives of the source of the money



which he is spending on ordinary living expenses and legal advice.”

29. To purge that contempt, para 3 of Schedule 2 to the Murray Order set out a series of questions, as can be seen at [20] above. Mr Lim had given evidence at the hearing on 23 July 2019 that from December 2018 his wife had paid his legal fees, principally because she was not subject to the same Malaysian capital controls as those to which he was subject. Accordingly, paras 3(c) and 3(d) of Schedule 2 to the Murray Order were relevant to any payment of Mr Lim’s legal expenses by his wife.
30. At paras 12 to 14 of Lim 6, Mr Lim gave the following answers to the questions raised by paras 3(c) and 3(d) of Schedule 2 to the Murray Order:
- “12. In response to (3)(c) and (3)(d), up to December 2018, I transferred £105,574.00 to pay legal fees.
13. The following are payments to Chan Neill Solicitors made in 2018 and referred to by them as the legal fees received as set out in the letter dated 6 December:
- a. 25 Sep 2018 - £30,000 paid from my personal checking (current) account at Maybank, Kuala Lumpur, Malaysia.
- b. 10 Oct 2018 - £36,000 paid from my personal checking (current) account at Maybank Malaysia, same account.
- c. 08 Nov 2018 - £39,600 paid out of my personal overdraft facility with Bank of China, Kuala Lumpur, Malaysia.
14. From the beginning of 2019, my wife transferred the following money to Chan Neill Solicitors to pay my legal fees from her account with Maybank, Shah Alam, Malaysia:
- a. 10/01/19 £60,000.00 part payment for invoice 7193 dated 14/01/19.
- b. 25/02/19 £19,200.00 balancing payment for invoice 7193 dated 14/01/19 and invoice 7472 dated 28/02/19.
- c. 08/05/19 £23,993.00 to pay invoice 7842 dated 16/04/19.
- d. 17/06/19 £21,593.00 to pay invoice 8208 dated 13/06/19.

The source of the above funds, a-d, is my wife. No further legal payments have been made since the last one on 17/06/19 to Chan Neill Solicitors other than payment of £65,876.00 to the Claimant's solicitors on 14 August 2019 pursuant to paragraph 7 of the 5 August 2019 order.”

31. Mr Robson submitted that this disclosure fails to address the question in para 3(d)(iii) of Schedule 2 to the Murray Order. He submitted that the fact that payments were made from an account in the name of Mr Lim's wife does not preclude the possibility that the monies in that account were derived from Mr Lim or are monies in which Mr Lim has a beneficial interest, making them subject to the Turner Order.
32. Mr Power's response to this point was, in essence, that it is a pedantic point. He submitted that Mr Lim was not obliged to use the word "ultimate" in his answer, provided that he answered the question. He submitted that Mr Lim's answer in Lim 6 was clear: Mrs Lim was the source of the money used to pay Mr Lim's legal expenses from the beginning of 2019. Mr Power also submitted that Lim 6 needs to be read in light of Mr Lim's evidence at the hearing on 23 July 2019, where Mr Lim answered questions on the same topic during cross-examination by Mr Robson.
33. Mr Power noted that Mr Lim, in his oral evidence, had made clear (as shown at pp 61-62 of the transcript) that his wife has her own savings, and that he had asked his wife to pay his legal fees from the beginning of 2019 because, unlike him, she was not subject to a Malaysian capital control that prohibits a person with domestic borrowing above a certain level from remitting more than 1 million Malaysian Ringgit per calendar year to an account outside Malaysia.
34. Mr Power questioned the clarity of the word "ultimate" in this context, asking rhetorically, what is the "ultimate" source of water? He submitted that Mr Lim was clear that his wife was the source of the monies in her account used to pay Mr Lim's legal expenses, and therefore Mr Lim had fully complied with his disclosure requirements in relation to the questions set out in paras 3(c) and 3(d), including para 3(d)(iii).
35. First, I note that para 4 of the Murray Order requires Mr Lim to provide a signed and sworn affidavit addressing the questions set out in Schedule 2 to the Order. Lim 6 purports to address the questions. It is sufficient, therefore, to consider whether Mr Lim has answered the question in para 3(d)(iii) by reference to Lim 6 without considering his evidence in cross-examination or his two witness statements of 21 August 2019 and 20 September 2019, which were also referred to by Mr Power during the course of his submissions. I note, in any event, that Mr Lim did not specifically confirm in his oral evidence at the hearing or in his subsequent witness statements that he is not the source of the monies used by Mrs Lim to pay his legal fees. He referred to her having her own savings in oral evidence, but he does not indicate the source of those savings.
36. Turning to consider para 3(d) of Schedule 2, I note that para 3(d)(ii) asks Mr Lim to confirm the source of the monies used to pay his solicitors. Para 3(d)(iii) must, therefore, require more than a repetition of the source of the monies. Para 3(d)(iii) clearly requires a specific denial by Mr Lim that he is the source of the monies used

by his wife to pay his solicitors' fees. I agree with Mr Power that it was not necessary for Mr Lim to use the word "ultimate" in his response (although it would have been helpful if he had), but Mr Lim needed to make it clear in his evidence that he had not provided his wife with the funds that she paid from her bank account to his solicitors or, if he had so provided them, then he needed to identify the way in which he had passed those funds to her.

37. As to Mr Power's point regarding the lack of clarity of the word "ultimate", it is clear that "ultimate" in the context of para 3(d)(iii) refers to Mr Lim. This is obvious, given the purpose of the disclosure provisions in the context of the freezing injunctions in the Andrew Baker Order and then the Turner Order. The freezing orders were concerned with Mr Lim's monies, and the point of para 3(d)(iii) was to elicit whether monies subject to the freezing orders had been passed to Mr Lim's wife by Mr Lim to be paid out of her bank account to his solicitors.
38. Given my conclusion that the question in para 3(d)(iii) is clear, I conclude that Mr Lim's failure to answer that question is a deliberate and material failure of compliance with his disclosure obligation under the Murray Order. Accordingly, the Unless Order took effect upon Mr Lim's failure by the deadline stipulated in para 4 of the Murray Order to file a signed and sworn affidavit including an answer to that question.

*Para 4 of Schedule 2 to the Murray Order*

39. Para 4 of Schedule 2 of the Murray Order, set out at [20] above, required Mr Lim to confirm that he had no individual assets valued at more than £20,000, whether owned in whole or in part, anywhere in the world other than those listed in his first five affidavits. Mr Lim had listed various assets in his affidavit dated 4 December 2018 ("Lim 3"), and he confirmed in his affidavits dated 28 March 2019 and 5 April 2019 that there were no further such assets to disclose.
40. During his closing submissions at the hearing on 23 July 2019, Mr Robson had submitted that it was unlikely, given Mr Lim's wealth, which by Mr Lim's own account exceeded £40 million, that he did not have further assets worth individually more than £20,000 other than those disclosed in his five affidavits made prior to the hearing. He was not, however, at that stage able to take the matter any further in submissions.
41. In Lim 6, in answer to para 4 of Schedule 2 to the Murray Order, Mr Lim made some corrections and gave some updates in relation to previously disclosed assets, but he did not disclose any further assets exceeding the £20,000 threshold.
42. On 19 August 2019, after having received Lim 6, where no further assets exceeding the £20,000 threshold were disclosed, the claimant instructed a specialist research agency, Acuris Risk Intelligence, to carry out a search into Mr Lim's sources of wealth, receiving the agency's reports ("the Search Agency Reports") on 28 August 2019. The Search Agency Reports identified shareholdings of Mr Lim that had never been disclosed to the claimant, and about which the claimant says it had no knowledge at the time of the Committal Application.

43. The following shareholdings of Mr Lim were highlighted by Ms Robson in her witness statement dated 6 September 2019 (with Ms Robson's estimation of the sterling equivalent at the time of her statement of the Malaysian Ringgit (RM) amounts set out below):
- i) 8,000 shares in Darul Persona (M) Sdn Bhd (507545 – M), a trading company, which represents an 80 per cent shareholding with Mr Lim's wife holding the remaining 20 per cent;
  - ii) 128,066 shares in Lim Oon Hiong Sdn Bhd (56876 – H), which represents a 25 per cent shareholding, the company's share capital being 509,002 RM (approximately £99,268); and
  - iii) 60,000,000 shares in Lion Diversified Holdings Berhad (9428 – T), formerly a publicly listed company, which represents a 4.31 per cent shareholding, the company's share capital being 1,027,041,601.50 RM with 272,584,834 RM as cash (approximately £200,265,996 with approximately £53,318,524 as cash).

44. Ms Robson exhibited the Search Agency Reports to her witness statement, along with copies of relevant documents from the Companies Commission of Malaysia (Suruhanjaya Syarikat Malaysia) ("the CCM") in relation to each company. She summed up this evidence at para 42 of her witness statement as follows:

"While the Claimant does not have access to up to date valuation figures for these shares, the value, certainly in respect of the 60 million shares in Lion Diversified Holdings, appears to be well in excess of £20,000 and would have been at the time of Lim 3 and Lim 6. For this company, based only on the share capital, the value of Mr Lim's shareholding would be £8,631,464."

The terms "Lim 3" and "Lim 6" are defined in her witness statement as I have defined them in this judgment.

45. Ms Robson also noted in her witness statement that BLL wrote to Mr Lim through Mr Power on 30 August 2019 and on 3 September 2019 putting this information to him and asking questions regarding these shareholdings, but he refused to provide any substantive answer to those questions.
46. Mr Robson submitted that the documents from the CCM provide compelling evidence that Mr Lim has at least one shareholding exceeding £20,000 in value that he has failed to disclose, and this is reinforced by the adverse inference that can be drawn from Mr Lim's failure to provide substantive answers to the claimant's questions about these shareholdings in correspondence or in his witness statement dated 20 September 2019. In that witness statement, in relation to the claimant's argument that Mr Lim has breached the Murray Order by not disclosing at least one of these shareholdings, Mr Lim says the following at paras 29-30:

"29. I now see that the claimant is raising an issue from schedule 2 of the Murray order after the deadline has expired, in that I have not satisfied the claimant that I

have corrected older affidavits. This is a technical argument at best and is totally disputed but my point is that it was not raised as it should have been in compliance with the Murray Order and it is a long time after that date.

30. The claimant has also raised *new* issues that fall outside and more importantly *after* the Murray Order but they now seek to rely on these too. I do not see how these new matters, which have no merit, can operate retrospectively against me.” (emphasis in original)
47. Mr Robson concluded his submissions on this point by saying that the evidence presented by the claimant on these shareholdings proves on a balance of probabilities that Mr Lim has ownership of at least one shareholding whose value exceeds £20,000 and that he failed to disclose. He submitted that this, therefore, is a further material breach of the Murray Order (in addition to a further breach of the freezing orders in effect at that time) in that Mr Lim failed in Lim 6 to correct his previous affidavit evidence and expressly confirmed in Lim 6 the truth of his prior affidavit evidence as modified and updated by Lim 6. Accordingly, the Unless Order is engaged also by this material breach.
48. In response, Mr Power’s principal submission was that the evidence presented by the claimant in relation to the shareholdings is not sufficient for the court to be able to conclude that Mr Lim has committed a further material breach by failing to disclose assets valued individually at above the £20,000 threshold. Mr Power noted that there was no formal valuation evidence in relation to the shareholdings that had been highlighted by Ms Robson in her evidence, as noted above. Mr Power also asked why the Search Agency Reports had only been commissioned in August 2019, when the question of whether Mr Lim had fully disclosed his assets was raised by the Committal Application. He dismissed this evidence as “litigation strategy and manoeuvring”.
49. Mr Power noted that Ms Robson had said in her evidence that the value of Mr Lim’s holding in Lion Diversified Holdings “*appears to be* well in excess of £20,000” (emphasis added). That, in his submission, is not sufficient to establish a material breach of the Murray Order, and in any event it is raised too late. He submitted that it was an argument that should have been raised, if at all, before Lim 6 was filed, in compliance and on time, in accordance with the Murray Order.
50. In my view, the claimant has provided sufficient evidence to show on a balance of probabilities that Mr Lim has at least one shareholding that he failed to disclose in Lim 6, or any of his prior affidavits, that is worth more than £20,000 and should have been disclosed.
51. I do draw an adverse inference from Mr Lim’s failure to address the claimant’s queries about these shareholdings that were put to him in correspondence and from his failure to address those queries, and the evidence supporting them, substantively in his witness statement. His evidence is evasive and seeks to take timing points. At a minimum the evidence of the Search Agency Reports and from the CCM raises

questions that Mr Lim could have answered easily, if he had an answer to give that did not involve admitting a breach of his disclosure obligations. I also bear in mind, in reaching this conclusion, my finding in my judgment of 5 August 2019 that he had given me deliberately dishonest evidence during the course of cross-examination during the hearing on 23 July 2019. This is relevant to my assessment of his evidence in response to the claimant's case in relation to para 4 of Schedule 2 to the Murray Order.

52. Given that I am concerned to determine whether Mr Lim gave false evidence in Lim 6 in response to para 4 of Schedule 2 to the Murray Order and therefore whether he was in breach of the Murray Order, there is no merit in the argument that it was too late to raise a point about non-disclosure of assets exceeding the £20,000 threshold in the freezing orders after the deadline in para 4 of the Murray Order for the filing of Lim 6 had past and/or after the freezing orders had been discharged by Mr Lim's payment into court of £2.5 million on 28 August 2019.
53. I conclude, on a balance of probabilities, that Mr Lim failed to disclose at least one shareholding that exceeds £20,000 in value, as he was required to do under the freezing orders, and that his failure to put this right in his evidence responding to para 4 of Schedule 2 to the Murray Order was a breach of that order, engaging the Unless Order.

*Conclusion on Mr Lim's application for a declaration*

54. For the reasons given above, I refuse the Defendant's Application to the extent that Mr Lim seeks a declaration that he has complied with the Murray Order.

*Relief from sanctions*

55. Turning to Mr Lim's application in the alternative for relief from sanctions, this can be dealt with briefly. I have found that Mr Lim has committed two material breaches of the Murray Order, in relation to para 3(d)(iii) and para 4 of Schedule 2 to the Murray Order, respectively. Each individual breach is, in my view, serious and significant. No good explanation for either breach has been given. I considered the possibility that Mr Lim may have simply not understood what was required of him in relation to para 3(d)(iii) as to the "ultimate" source of the funds, but I note that he had professional legal advisers, and in any event, in my view, the question is sufficiently clear, as I have already indicated above.
56. Mr Power in his submissions in relation to relief from sanctions pointed to efforts made by Mr Lim to comply with Lim 6, that he paid his costs on time, that he sought guidance from the court as to whether he had satisfied the requirements of the Murray Order, that he had sought guidance from the claimant (but the claimant refused to provide any), that he had promptly issued the Defendant's Application when he learned of the claimant's position that he had failed to comply with the Murray Order and so on. Mr Power said that Mr Lim was willing to pay costs incurred as a result of the Defendant's Application, and a trial date in February 2020 has been set. He submitted that Mr Lim should be allowed to defend the claim substantively.
57. I was not persuaded by any of these submissions that it would be just in all the circumstances to allow relief from the sanction of the Unless Order. It is a draconian

sanction, but, as noted in my judgment of 5 August 2019, I considered after hearing evidence and submissions by both parties on 23 July 2019 that it was appropriate to include the Unless Order in order to reinforce the terms of the Murray Order, and I note that Mr Lim, through Mr Power, accepted on 5 August 2019 that he was willing to agree to the Unless Order.

58. Accordingly, I conclude that Mr Lim has not made out a basis for granting relief from sanctions.
59. In view of my findings, I confirm that the Unless Order has taken effect. Mr Lim's Defence has been struck out, and judgment on the claim will be entered for Aspinalls.