Neutral Citation Number: [2023] EWHC 302 (Ch)

BL-2021-001684

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES

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

14 February 2023

Before:

MR JUSTICE LEECH

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B E T W E E N:

SOLICITORS REGULATION AUTHORITY LIMITED	**Claimant**
-- and –	
(1) SOOPHIA KHAN **(2) SOPHIE KHAN & CO LIMITED** **(3) JUST FOR PUBLIC LIMITED**	**Defendants**

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MR PHILIP AHLQUIST (instructed by **Capsticks Solicitors LLP**) appeared on behalf of the Claimant
MR JAMES BOGLE (instructed by **Janes Solicitors**) appeared on behalf of the First Defendant.

Hearing dates: 1 and 2 February 2023

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APPROVED JUDGMENT (LIABILITY)

I direct that no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

Mr Justice Leech:

I. The Application

1. By Application Notice dated 4 October 2022 (the "**Committal Application**") the Claimant, the Solicitors Regulation Authority Ltd (the "**SRA**"), applied to commit the Defendants for contempt of court for breach of the Order made by Miles J on 27 April 2022 (the "**Miles Order**"). This is the second application for committal made by the SRA against Ms Soophia Ms Khan before me and I set out the background which is common to both applications in my judgment dated 12 January 2022 reported at [2022] EWHC 45 (Ch) at [1] to [24] (the "**First Judgment**") and I will assume that the reader of this second judgment is also familiar with that background.

2. In the First Judgment I sentenced Ms Khan to six months' imprisonment. Three months of the sentence were intended to reflect Ms Khan's breaches of two court orders and three months to secure compliance with their terms. On 17 February 2022 the Court of Appeal (Arnold and Nugee LJJ) dismissed an appeal: see [2022] EWCA Civ 287. Ms Khan did not comply with those Orders and served the full sentence and, after statutory remission, she was released after serving three months.

3. While Ms Khan was still in prison, on 6 April 2022 the SRA applied for a further order under the Solicitors Act 1974, Schedule 1 ("**Schedule 1**"), paragraph 9. On 27 April 2022 a hearing took place before Miles J at which Ms Khan was represented by counsel, Mr Mark James, and which she also attended by telephone. Following the hearing, Miles J made (what I have called) the Miles Order. A penal notice in the standard form directed to Ms Khan both in her personal capacity and in her capacity as director of both the Second Defendant (the "**Firm**") and the Third Defendant ("**JFP**") were prominently displayed on the front page and a detailed notice explaining its terms was set out on its second page. Paragraphs 1 to 6 then provided as follows under the heading "Delivery Up of Documents and Other Items":

> "1. By 4pm on 5 May 2022, the Defendants must produce or deliver up to the Agent all Listed Items in their possession or control (including, for the avoidance of doubt, any emails which are Listed

> Items that are held by the account for the following email addresses: sophiek@sophiekhan.co.uk or legal@justforpublicltd.org.uk and any other email addresses used in connection with the Practices in the past 12 months). Unless otherwise agreed in writing with the Agent, the items must be delivered to the Agent's Address on a weekday between 9am and 5pm and the Agent must be given 24 hours' notice of the date and time of delivery of the documents, by email to John.Owen@gordonsllp.com.
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> 2. The First Defendant must by 4pm on 5 May 2022 provide all necessary usernames and passwords to give effective access to the Listed Items that she delivers up to enable them to be searched, accessed and the contents (or data accessible therefrom) imaged by the Claimant or on its behalf.
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> 3. If she knows or believes that any of the Listed Items are in the possession or under the control of any person other than any of the Defendants, the First Defendant must by 4pm on 5 May 2022 notify the Agent by e-mail to John.Owen@gordonsllp.com, identifying such persons (together with (if known) their addresses and contact information). Further, the First Defendant shall, on the request of the Agent, deliver to any person in possession of such Listed Item a letter of authority (in such terms as the Agent may reasonably require) instructing such persons to produce and deliver the Document to the Agent.
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> 4. The First Defendant must use all reasonable endeavours to obtain and provide to the Agent by 4pm on 5 May 2022 all such usernames, passwords and other information, as may be necessary to enable the Agent or members of the Agent's Team to access to the account relating to the following email address: legal@justforpublicltd.org.uk. Any access to the said email account by the Claimant, its Agent or members of the Agent's Team shall be subject to the provisions in paragraphs 7 to 11 below. The Claimant has liberty to apply to request that further email addresses be added to this paragraph.
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> 5. If the Defendants are unable to comply with paragraphs 1 to 3 above, the First Defendant must, by 4pm on 5 May 2022, serve upon the Agent a signed witness statement with a statement of truth explaining the steps that she has taken to comply, why she has been unable to do so and when she will be able to do so.
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> 6. Upon taking possession of the Listed Items, the Claimant must serve on the Defendants a notice complying with Paragraph 9(7) of Schedule 1."

4. Paragraphs 16 to 19 dealt with service of the Order. Paragraph 16 required the SRA to serve the Miles Order on Ms Khan personally. However, paragraphs 17 and 18 provided for alternative service and paragraph 19 required Ms Khan to give an address for service once she had been served:

> "17. Pursuant to CPR 6.27 and CPR 81.4, if the Claimant is unable to serve this order personally pursuant to paragraph 4 above on either or both of the Defendants, the Claimant shall not be required to serve this order personally and the Claimant shall instead serve this order: 17.1. By sending it by first class post (or other service which provides for delivery on the next business day) to the First Defendant's residential address registered with the Claimant under her 'My SRA' account and to the registered address of the Second Defendant and the Third Defendant; and 17.2. By sending a copy of this order by email to sophiek@sophiekhan.co.uk and legal@justforpublicltd.org.uk, which shall be effective as service on each of the Defendants.
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> 18. If the Defendants are served pursuant to paragraph 5 above, they shall be deemed served on the same day as the e-mail is sent if it is sent on a business day before 4:30pm or in any other case, on the next business day after the day on which it was sent. If the Claimant is unable to serve by email or receives a notification that the transmission of the email has been unsuccessful, then the Defendants shall be deemed served on the second day after the order was posted, left with, delivered to or collected by the relevant service provider provided that day is a business day; or if not, the next business day after that day.
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> 19. The Defendants shall, within 7 days of service of this Order, provide to the Claimant's solicitors an address or addresses at which they may be served. Such addresses may be email addresses or postal addresses. All other notices and documents which the Claimant is required to serve on the Defendants in connection with this order or the powers exercised by the Claimant may be served on the Defendants at that address."

5. Paragraph 20 provided for the Defendants' exercise of their rights under Schedule 1, paragraph 9(8) and paragraph 22 contained the definitions used throughout the Order. For present purposes, it is enough to record that the following terms were defined in the following way:

> "22.4 'Computer' – includes all types of computer, such as personal computers, laptops, tablets, handheld devices and all other forms of personal digital assistant.
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> 22.5. 'Documents' – all documents of whatsoever nature, whether in hard copy or soft copy, connected with the Practices or with any trust of which the First Defendant is or was a trustee
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> 22.6. 'Former Clients' – any former clients of the Practices.
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> 22.7. 'Listed Items' – as defined in Schedule A.
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> 22.9 'Property' – any property in the possession of or under the control of any of the Defendants or the Practices which the Claimant

> reasonably requires for the purpose of accessing information contained in the Documents."

6. Ms Claire Crawford, a Principal Associate of Capsticks Solicitors LLP ("**Capsticks**"), made her fourth affidavit ("**Crawford 4**") in support of the Application. It was her evidence that until 17 September 2021 the Firm's head office and registered office address was 9 Portland Towers, Portland House, Leicester, Leicestershire, LE2 2PG, that it had also registered a branch office at the Wimbledon Village Business Centre, Thornton House, Thornton Road, Wimbledon, London SW19 4NG but that on 17 September 2021 the Firm's registered office address was changed to a residential address at First Floor Flat, 8 Ridgway, Wimbledon, London SW19 4QN.

7. It was also Ms Crawford's evidence that on 3 May 2022 the Miles Order was copied by the judge's clerk to sophiek@sophiekhan.co.uk (the "**SophieK Email Address**"); that on 3 and 4 May 2022 a process server attended the Wimbledon office and residential address but was unable to serve the Miles Order personally on Ms Khan (although he posted them through letter box); and that on 3 May 2022 Capsticks sent a copy of the sealed Miles Order by post by Special Delivery to the Wimbledon office (where it was signed for). Finally, it was Ms Crawford's evidence that on 3 May 2022 Capsticks sent the Miles Order by email to the SophieK Email address and to the following two additional email addresses: enquiries@sophiekhan.co.uk and legal@justforpublicltd.org.uk (the "**JFP Email Address**").

8. Ms Khan made a number of affidavits in answer to the Application but she did not challenge any of this evidence or suggest that the Order had not come to her attention. Indeed, her evidence was predicated on the assumption that she was (at the very least) aware of the Miles Order. Although the SRA was unable to serve the Miles Order personally on Ms Khan, I am satisfied that it was served in accordance with the alternative service provisions in paragraphs 17.1 and 17.2. I also find that Ms Khan did not comply with paragraph 19 and provide an address for service (although nothing turns on this).

9. It is common ground that Ms Khan did not deliver up any Listed Items (as defined) to Mr John Owen, who is a partner in Gordons LLP, and the agent

identified in paragraph 1 of the Miles Order. It is also common ground that Ms Khan did not make a witness statement and serve it on the SRA by 4 pm on 5 May 2022 although it is her case that she complied with paragraph 5 of the Miles Order (albeit late) when she served her first affidavit sworn on 30 November 2022 ("**Khan 1**").

10. On 4 October 2022 the SRA issued the Committal Application supported by Crawford 4. In her fifth affidavit sworn on 24 November 2022 ("**Crawford 5**") Ms Crawford gave evidence that attempts were made to serve Ms Khan personally with the Application Notice and supporting documents at both the Wimbledon office and the residential address but in each case the process server was unable to serve her (although the documents were accepted by a receptionist at the Wimbledon office). It was also her evidence that they were sent by post by Special Delivery to both the Wimbledon office and the residential address and signed for. Finally, her evidence was that they were sent to both the Sophie K and JFP Email Addresses and that the documents were accessed from the mailbox of the latter address.

11. In Crawford 4 the SRA applied for an order for alternative service of the Application in the event that it was unable to serve it personally in accordance with CPR Part 81.5(1). Ms Khan did not oppose that application and did not submit that she had been prejudiced in any way by the failure to serve her personally. Indeed, she appeared by solicitors and counsel at the first hearing of the application which took place before me on 6 December 2022. On that occasion Mr Bogle, who appeared on her behalf then as he did at the subsequent hearing, raised a number of procedural issues and rather than hear the Application I gave further directions and listed the substantive hearing for almost two months later. I am satisfied, therefore, that it is appropriate to dispense with personal service under CPR Part 81.5(1) and to grant the application for alternative service of the Application and supporting documents by post by Special Delivery and by email to the JFP Email Address.

II. The Allegations

12. The SRA alleges that Ms Khan committed breaches of both paragraph 1 and 5 of the Miles Order. There is no issue between the parties that Ms Khan did not deliver up any Listed Items or serve a witness statement by 5 May 2022. The real issues between the parties are whether the Defendants had any Listed Items in their possession or control on 27 April 2022 and whether Ms Khan was telling the truth when she said that they did not in Khan 1 (or the further affidavits which she swore). It is unsurprising, therefore, that the summary of facts which the SRA was required to provide in Box 12 of the Application was in the following form:

> "The facts alleged to constitute the contempt are the following:
>
> 1. At all material times, the Defendants have had Listed Items in their possession and/or under their control and it was within the power of the Defendants to comply with paragraph 1 of the Order.
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> 2. The Defendants were validly and effectively served with the Order in accordance with paragraph 17 of the Order and thereby had notice of the Order and the terms of the Order. The deemed date of service of the Order pursuant to paragraph 18 of the Order was 3 May 2022.
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> 3. The Defendants have nevertheless failed to produce or deliver up any Listed Items to the Agent by 4pm on 5 May 2022 in accordance with paragraph 1 of the Order or at all. The Defendants have therefore breached paragraph 1 of the Order.
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> 4. The Defendants have also failed to serve upon the Agent, by 4pm on 5 May 2022, a signed witness statement with a statement of truth explaining the steps that they have taken to comply with paragraphs 1 to 3 of the Order and why they have been unable to do so and when they will be able to do so. The Defendants have therefore breached paragraph 5 of the Order.
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> 5. Further or alternatively, in her capacity as a director of the Second Defendant and/or the Third Defendant, the First Defendant has wilfully failed to take reasonable steps to ensure that the Second Defendant and/or the Third Defendant complied with paragraph 1 and/or paragraph 5 of the Order."

13. Mr Bogle submitted that the SRA had failed to give proper particulars of the facts constituting the contempt of court which Ms Khan was alleged to have committed. He submitted that the SRA ought to have given adequate details of the specific Documents or classes of Documents which Ms Khan had failed to deliver up and the dates, times and places when they were in the Defendants' possession or control.

14. Mr Bogle did not submit that I should dismiss the Application for failure to provide this information. But he did submit that this explained the way in which Ms Khan's evidence had evolved. He submitted that she had initially been left guessing about the documents upon which the SRA relied and had sworn her second affidavit on 5 December 2022 ("**Khan 2**") in answer to the Supplemental Skeleton Argument filed for the hearing that day (the "**SSA**"). He also submitted that she had sworn her third affidavit on 9 January 2023 ("**Khan 3**") in answer to the affidavit of Mr Owen sworn on 1 December 2022 ("**Owen 1**") which had been served very late and her fourth affidavit on 1 February 2023 ("**Khan 4**") in answer to the sixth affidavit of Ms Crawford sworn on 20 January 2023 ("**Crawford 6**").

15. It is unnecessary for me to deal with these submissions in great detail because they were largely made in Mr Bogle's Skeleton Argument to support the late admission of Khan 4 which I allowed. But in any event, I do not accept them for three reasons. First, in my judgment the SRA complied with the procedural requirements for a committal application. In *Business Mortgage Finance 4 plc v Hussain* [2022] EWCA Civ 1264 the Court of Appeal rejected the submission that Miles J ought to have struck out the summary of facts in that case on the basis that they were inherently defective and inadequately particularised. Nugee LJ set out the law at [86]:

> "There was no dispute as to the law. As appears above (paragraph 61) CPR r 81.4(2)(h) requires that the committal application includes "a brief summary of the facts alleged to constitute the contempt, set out numerically in chronological order". This reflects a long-standing requirement that the defendant to a committal application should know exactly what it is that he is accused of: see *Harmsworth v Harmsworth* [1987] 1 WLR 1676 at 1683C per Nicholls LJ, *re L (A Child)* [2016] EWCA Civ 173 at [73] per Vos LJ and *Group Seven Ltd v Allied Investment Corporation Ltd* [2013] EWHC 1509 (Ch) at [38] per Hildyard J. In *Deutsche Bank AG v Sebastian Holdings Inc* [2022] EWHC 3536 (Comm) at [77] Cockerill J summarised the cases and formulated the test as follows: "Would such a person, having regard to the background against which the committal application notice is launched, be in any doubt as to the substance of the breaches alleged?" This formulation of the test was accepted by both parties."

16. Nugee LJ drew attention to the guidance given above Box 12 on Form N600: "Summary of facts alleged to constitute the contempt (set these out very briefly in chronological order in numbered points)". He took as an example one specific allegation of breach where the Applicant had failed to identify the individuals who had held themselves out as its directors. He then continued as follows at [89]:

> "That was the main point made by Mr Counsell and the only one which he developed orally. I do not think this complaint is made out. As Ms Dilnot said, the requirement in CPR r 81.4(2)(h) to set out "a brief summary of the facts alleged to constitute the contempt" does not require a fully particularised pleading (cf Form N600 which refers to setting out the facts "very briefly "). It is more akin to a count on an indictment. It must leave the defendant in no doubt as to the substance of the breaches alleged, but it does not need to do more than that. Here the substance of the breaches alleged was that Mr Hussain had been responsible for producing or sending (or causing, procuring or permitting someone else to produce or send) the various letters and other documents itemised. In relation to the 9 April letter, for example, what was being said was that Mr Hussain was responsible for that letter. That was the gravamen of the charge, and was what he was supposed to have done. I do not think he was left in any real doubt what he was accused of. There was no doubt the letters had been sent; there was no doubt what they said; what was in issue, and what Mr Hussain was charged with, was whether he was responsible for them."

17. In my judgment, the summary in Box 12 of the Application (above) satisfies this test. The gravamen of the charge made by the SRA was that Ms Khan failed to deliver up any Listed Items by 4 pm on 5 May 2022 and, having failed to do so, she failed to serve a witness statement explaining what she had done to comply and why. The principal issue which I had to determine was whether the failure to deliver up any Listed Items amounted to a breach of the Miles Order. Ms Khan was left in no doubt that the case which she had to meet was that this was a breach of the Order.

18. Secondly, Ms Khan above all could have been expected to know what Listed Items she had in her possession and control and what steps she had taken to comply with the Order. A function of paragraph 5 of the Miles Order was analogous to that of a disclosure order in a freezing injunction, namely, to enable the Court to police the operative provisions. It is for the Respondent to provide

evidence of their assets so that the Court is able to determine whether they have complied with the injunction. In the same way it was for Ms Khan to explain promptly what steps she had taken to locate Listed Items in her possession and control to enable the Court to be satisfied that she had complied with paragraph 1. This was a point which Ms Crawford made clearly to her in Crawford 4, paragraph 93.

19. Thirdly, and in any event, I am satisfied that the SRA had provided adequate details of the Listed Items of which it was aware in Owen 1 and that Ms Khan had a full opportunity to address them. I accept that Owen 1 may have involved more detailed particularisation of the SRA's case and that some of the clients and files might have been identified in Crawford 4. But on 6 December 2022 I adjourned the Application both to enable Ms Khan to answer it and also to enable Mr Bogle to cross-examine Mr Owen (if he wished to do so). In the event, he did not require Mr Owen to be called at the substantive hearing and there was no challenge to his evidence. But Ms Khan had almost two months to address Owen 1 and chose to do so in both Khan 2 and Khan 3.

20. Further, although the SRA served Crawford 6 in reply to Khan 2 and 3 on 20 January 2022, this was within the time limit specified in the Order dated 6 December 2022. Moreover, in my judgment, Crawford 6 was genuinely responsive and did not raise a new case or identify cases or clients which had not been the subject of evidence given either by Mr Owen or by Ms Khan herself. Ms Khan chose to make Khan 4 because Ms Crawford's evidence highlighted what were said by the SRA to be deficiencies in Ms Khan's earlier evidence. I address the substance of the evidence below. But I am satisfied that Crawford 6 did not involve any form of ambush and Ms Khan had almost two weeks to address it.

III. The Law

A. Schedule 1

21. Schedule 1, paragraph 1 confers a power on the SRA has to intervene in a solicitor's practice where there are reasons to suspect dishonesty. This is a draconian power but one which Parliament has conferred in the public interest in

order to protect the interests of a solicitor's clients and former clients. The SRA may need to act promptly to protect the funds, documents and data of those clients and paragraph 9(1) confers a power to require to the solicitor to deliver up both hard copy and electronic documents. Paragraph 9(5) also permits the SRA to apply to Court to obtain an order for delivery up against third parties:

> "(1) The Society may give notice to the solicitor or his firm requiring the production or delivery to any person appointed by the Society at a time and place to be fixed by the Society—
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> (a) where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 1, of all documents in the possession or under the control of the solicitor or his firm in connection with his practice or former practice or with any trust of which the solicitor is or was a trustee; and
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> (b) where they are exercisable by virtue of paragraph 3, of all documents in the possession or under the control of the solicitor or his firm in connection with the trust or other matters of which the Society is satisfied (whether or not they relate also to other matters) ….
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> (5) If on an application by the Society the High Court is satisfied that there is reason to suspect that documents in relation to which the powers conferred by sub-paragraph (1) are exercisable have come into the possession or under the control of some person other than the solicitor or his firm, the court may order that person to produce or deliver the documents to any person appointed by the Society at such time and place as may be specified in the order and authorise him to take possession of them on behalf of the Society."

22. Mr Ahlquist, who appeared on behalf of the SRA, reminded me that the power to intervene on the basis of suspicion and the power to require delivery up of documents were strong powers and intended to enable the regulator to nip dishonesty in the bud. He drew my attention to the decision of the Court of Appeal *Rose v Dodd* [2005] ICR 1776 at [27] to [29] and the decision of Sir Robert Megarry V-C in *Buckley v the Law Society (No 2)* [1984] 1 WLR 1101 at 1105-6 (cited by Chadwick LJ in *Sheikh v Law Society* [2007] 3 All ER 183 at [15]):

> "Statute has put The Law Society in a special position in relation to solicitors generally. The society has many important powers which are exercisable in the public interest. In many ways the society is the guardian not only of the profession but also of the public in its relation with solicitors. The powers of intervention conferred by

> Schedule 1 are plainly powers that are intended to enable the society to nip in the bud, so far as possible, cases of dishonesty by solicitors. The power to act on suspicion is a strong power, and there must often be a real element of risk in its exercise. But the decision of Parliament that the society is to have power to act on suspicion necessarily involves a decision that the society is to take whatever risks are involved in so acting; and those include risks both to the society and to the solicitors concerned."

23. Mr Ahlquist also submitted that a solicitor is not only bound to comply with a notice under paragraph 9(1) but bound to do so promptly. The longer a solicitor withholds documents, the more that the statutory purpose of Schedule 1 is undermined. He submitted that the function of paragraph 5 of the Miles Order was not simply to enable the Court to police paragraph 1 (and other provisions) but also to further the statutory purpose of Schedule 1. Even if a solicitor served with a paragraph 9(1) notice no longer has the documents in their possession, then it is equally important for the solicitor to inform the SRA because it may need to make an application to court under paragraph 9(5) to protect the interests of clients.

24. Mr Ahlquist relied on the evidence of Mr Owen who has been an intervention agent since 2007 and has worked on interventions assisting colleagues since 2000. His evidence was as follows:

> "As part of my role as an intervention agent, I would usually assess all live files (whether physical or electronic) belonging to the solicitor or firm subject to the intervention, contact all clients with live matters so that my team and I could arrange for the transfer of the files relating to that firm's or solicitors' practice to another solicitor who could act on their behalf. This is particularly important for litigation matters where there are deadlines and limitation periods which must be met and/or hearings to be attended. Archived files are stored by the SRA until requested by clients. Usually, email, post and fax communi-cations are all redirected to the relevant intervention agent to ensure that correspondence on website of the firm/solicitor will also be taken down to ensure that the public is not misled into thinking that the firm/solicitor is still operating and/or practising. The SRA also uplifts all accounting records so that the money held for clients can be identified and returned to them. Clients are also advised to make a claim to the SRA Compensation Fund if there is money that the firm/solicitor has failed to account to them for or has dishonestly taken."

25. I accept that evidence and Mr Ahlquist's submissions. Whatever the merits of the intervention, Ms Khan was obliged to comply with a notice under paragraph 9(1). Whether or not she has now complied with paragraph 1 of the Miles Order, she was also ordered to serve a witness statement by 5 May 2022 to enable the SRA to assess what further action it was necessary to take to protect the Firm's clients and, if necessary, to take that action. The evidence of Mr Owen demonstrates why it was necessary for her to act promptly and to engage with Mr Owen to establish an orderly handover of matters and files. It also demonstrates why it was necessary for Ms Khan to comply promptly with paragraph 5 of the Miles Order whether or not she held any Listed Items at all.

26. Finally, Mr Ahlquist submitted that whether or not I accepted her evidence, Ms Khan had frustrated the statutory purpose of Schedule 1 because the SRA and Mr Owen as intervention agent still did not know who all of the Firm's clients were and what had become of their documents (whether electronic or hard copy documents) eighteen months after the intervention. I agree with the general point which Mr Ahlquist made and I am satisfied that in assessing whether Ms Khan committed a breach of paragraph 5 and the seriousness of such a breach, it is important to consider whether it has prevented the intervention agent from discharging his function.

B. Contempt

27. As I stated in the First Judgment at [40], to establish a contempt of court the SRA must establish three elements: (1) Ms Khan had notice of the Miles Order, (2) she acted or failed to act in a manner which involved a breach of the Miles Order and (3) she knew the facts which made that conduct a breach: see, for example, *Masri v. Consolidated Contractors International Co SAL* [2011] 1024 (Comm) at [150] (Christopher Clarke J). It was common ground that the standard of proof is the criminal standard and that the SRA had to prove contempt of court beyond a reasonable doubt.

(1) Inferences

28. There is clear authority for the proposition that the Court may rely on inferences drawn from the documents or circumstances in making findings of contempt: see

Hussain (above) at [95] and [96]. However, because the standard of proof is the criminal standard it is not enough for the Court to draw the inference that it is more probable than not that Ms Khan held a Listed Item on 27 April 2022 or that she had the relevant state of mind. The Court must be satisfied that the facts are inconsistent with any conclusion other than that the contempt has been committed: see *Masri* (above) at [146]. If it is reasonable to draw an inference which is consistent with a finding that Ms Khan is not liable for contempt, then the Committal Application must fail.

29. This does not mean, however, that every individual fact or piece of evidence must be proved beyond a reasonable doubt. The Court may draw the inference that contempt is proved beyond a reasonable doubt from the totality of the evidence. This point was made by Rix LJ in *JSC BTA Bank v Ablyazov (No 8)* [2013] 1 WLR 1331 at [52]:

> "It is, however, the essence of a successful case of circumstantial evidence that the whole is stronger than individual parts. It becomes a net from which there is no escape. That is why a jury is often directed to avoid piecemeal consideration of a circumstantial case: *R v. Hillier* (2007) 233 ALR 63 (HCA), cited in Archbold 2012 at para 10-3. Or, as Lord Simon of Glaisdale put it in *R v. Kilbourne* [1973] AC 729 at 758 "Circumstantial evidence…works by cumulatively, in geometrical progression, eliminating other possibilities". The matter is well put in *Shepherd v. The Queen* (1990) 170 CLR 573 (HCA) at 579/580 (but also passim):
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> > "…the prosecution bears the burden of proving all the elements of the crime beyond reasonable doubt. That means that the essential ingredients of each element must be so proved. It does not mean that every fact – every piece of evidence – relied upon to prove an element by inference must itself be proved beyond reasonable doubt. Intent, for example, is, save for statutory exceptions, an element of every crime. It is something which, apart from admissions, must be proved by inference. But the jury may quite properly draw the necessary inference having regard to the whole of the evidence, whether or not each individual piece of evidence relied upon is proved beyond reasonable doubt, provided they reach their conclusion upon the criminal standard of proof. Indeed, the probative force of a mass of evidence may be cumulative, making it pointless to consider the degree of probability of each item of evidence separately."

30. In *Hussain* (above) Nugee LJ cited this passage at [97] and, although neither Stuart-Smith nor Arnold LJJ cared for the expression "geometrical progression"

used by Lord Simon, both agreed with Nugee LJ's application of the principle and the observation of Miles J at first instance that when considering the effect of circumstantial evidence the sum is often greater than its parts: see [114] and [116]. These observations are particularly apt in the present case where I have to consider what inferences to draw about Ms Khan's previous clients and files. For example, it may not be possible to draw that inference that there was a deliberate pattern of conduct from the evidence relating to a single client or a single file. But it may be possible to draw that inference from the evidence relating to a substantial number of files or clients.

(2) The Right to Silence

31. Ms Khan could not be compelled to give evidence. She chose to deploy and rely on Khan 1 to 4 in her defence. But until after Mr Ahlquist had completed his opening on behalf of the SRA on 1 February 2023 Mr Bogle did not communicate her decision whether to give evidence. In the event, Mr Bogle told me after a short break that Ms Khan did not intend to give evidence and then she did not do so. On 2 February 2023 Mr Ahlquist made closing submissions focussing on Khan 4 (which had been served the day before), Mr Bogle made his submission on behalf of Ms Khan and both counsel made short replies.

32. Mr Ahlquist submitted that I was entitled to draw the inference that Ms Khan had chosen not to give evidence because she recognised that she could not exonerate herself and that cross-examination would damage her case. I was reluctant to accept this submission initially, because the classic position is that an inference of guilt cannot be drawn from a decision to exercise the right to silence. However, I am satisfied that Mr Ahlquist's submission was correct in law. In *Hussain* Nugee LJ set out the position as it applies to committal applications at [112]:

> "The remaining point taken by Mr Counsell was that Miles J was wrong to conclude that Mr Hussain's silence could only sensibly be attributed to his having no answer, the Claimants having failed to establish a case sufficiently compelling to call for an answer. I do not think there is anything in this point. The Claimants had in my view plainly done enough to establish a sufficient case to answer. Mr Hussain chose not to give evidence. He was not obliged to, but

> the necessary consequence is that Miles J did not have the benefit of any explanation from him. What Miles J said was (at [311]):
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> > "The features highlighted above clearly call for an explanation. Mr Hussain has, without good reason, chosen not to attend the trial. He has also chosen not to give evidence. It is his right to remain silent. But I infer that he has chosen not to give evidence because he recognises that he is unable to give exonerating evidence, and that cross-examination would further damage his case. This supports and strengthens the conclusions I have already stated."
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> In my judgment that was a view Miles J was entitled to come to. In any event, as he says, it only strengthened the conclusion he had already come to on the other evidence."

(3) Knowledge

33. Mr Ahlquist cited *Varma v Atkinson* [2020] Ch 180 for the proposition that it is unnecessary to prove that Ms Khan knew that her actions or her failure to act was a breach of the Order in relation to the allegations of contempt against her in her personal capacity. He also submitted that in relation to the allegations of contempt against her in her capacity as a director of the Firm and JFP it was necessary to show that she wilfully failed to ensure that those companies took steps to ensure compliance with the Miles Order. I accept those submissions (as I accepted them in the First Judgment: see [46] to [50]).

34. Indeed, notice of the relevant order is usually equated with knowledge of its terms and it is usually enough to show that the contemnor was properly served with the Order to establish the mental element for contempt. In *Cuciurean v The Secretary of State for Transport* [2021] EWCA Civ (where the court had to consider injunctions against persons unknown) Warby LJ addressed this point at [56] to [58]. Having considered whether it is necessary to show something more than service he stated this at [58]:

> "These authorities indicate that (1) in this context "notice" is equivalent to "service" and vice versa ; (2) the Court's civil contempt jurisdiction is engaged if the claimant proves to the criminal standard that the order in question was served, and that the defendant performed at least one deliberate act that, as a matter of fact, was non- compliant with the order; (3) there is no further requirement of *mens rea*, though the respondent's state of knowledge may be important in deciding what if any action to take

> in respect of the contempt. I agree also with the Judge's description of the appellant's argument below: "it replaces the very clear rules on service with an altogether incoherent additional criterion for the service of the order." But nor am I comfortable with the notion that service in accordance with an order properly made can be set aside if the respondent shows that it would be "unjust in the circumstances" to proceed. This is not how the Court saw the matter in *Cuadrilla*, nor is it a basis on which good service can generally be set aside. It also seems to me too nebulous a test."

35. Mr Ahlquist accepted that the SRA had to prove beyond reasonable doubt that Ms Khan's conduct was wilful to establish contempt against the Firm and JFP. But he submitted that it was not necessary to prove that she was aware that her conduct amounted to a breach of the Order. He submitted that wilful conduct included reckless conduct and he gave the example of a sole director who is aware of the order but says to herself: "I have made a decision that I will not do anything to comply with the order myself or to ensure that the company complies with the order and I do not care whether this failure places the company in breach."

36. I accept that submission. There is nothing in Henshaw J's formulation of the test in *Dell Emerging Markets (EMEA) Ltd v Systems Equipment Telecommunications Services* [2020] EWHC 561 (Comm) at [25] (which I set out in the First Judgment at [47]) which requires the SRA to prove that Ms Khan was aware that her conduct put the company in breach of the Miles Order or that the general principle that ignorance of the law is no defence, does not apply to a committal application. But there must be a conscious decision to take no steps to ensure that the company complies. In my judgment, Mr Ahlquist's example neatly captures the state of mind which must be proved. Having directed myself in relation to these principles of law, I turn now to my findings of fact.

IV. Findings

C. Notice

37. I have found that Ms Khan was properly served with the Order in accordance with the alternative service provisions in paragraphs 17.1 and 17.2 of the Miles Order. It is clear from the terms of the Order that those provisions were intended

to apply not just to service on Ms Khan personally but also to service on the Firm and JFP (and Mr Bogle did not submit otherwise). I find, therefore, that the SRA properly served the Miles Order on all three Defendants. I also find that the Miles Order was deemed served on them by email on 3 May 2022 and by post on 5 May 2022.

38. Moreover, Ms Khan attended the hearing before Miles J on 27 April 2022 and she was represented by counsel. In Khan 1 she set out in full the definition of Listed Items in Schedule A to the Miles Order and gave evidence that she had located some accounting records which she now attached: see paragraph 8. She then gave the following her evidence in paragraphs 9 to 14 (which I should set out in full):

> "9. I accept that I did not file a statement pursuant to Paragraph 5 of the Order before now. However, since I appealed the Order, the Claimant was apparently willing to await the outcome of my application for permission to appeal. They did not issue the Contempt Application until 4 October 2022 after the making of the Order of Arnold LJ, of 21 September 2022, refusing me permission to appeal. I was therefore awaiting the outcome of my permission to appeal application, albeit I accept that there was no formal stay ordered. Once the Claimant issued the Contempt Application (which was less than two weeks after my application for permission to appeal was refused), I felt I could not serve a statement pursuant to Paragraph 5 until I had taken formal legal advice on the Contempt Application, especially as I then had a right to silence.
>
> 10. Moreover, since I believed I had none of the Listed Items, there was nothing, or virtually nothing, for me to say in any statement pursuant to paragraph 5 and I did not believe that I was failing to comply with the Order by not filing what would be no more than a bare "nil return" statement that I had none of the Listed Items in my possession, custody or control.
>
> 11. If I was wrong about that then I sincerely apologise to the court, emphasise that no disrespect was thereby intended and also sincerely apologise if that has become the reason for this Application now taking up the court's valuable time.
>
> 12. I particularly apologise further as I have, in fact, found the records mentioned at 8c. above which were at my home address and which I had simply forgotten about and was thus not aware of. Accordingly, I have now exhibited them to this affidavit.
>
> 13. Since the Order was made, I have carried out a thorough search at both the offices of the Defendants at 9 Portland Towers, Leicester LE2 2PG, and at Wimbledon Village Business Centre,

> Thornton House, Thornton Road SW19 4NG, and my home address, 8 Ridgway, Wimbledon, London SW19 4QN in case there might be anything else there that I might have forgotten about or overlooked. I have found nothing else disclosable under the Order. There is no other place that I could search to find any of the Listed Items and, I repeat, I do not now have any of the Listed Items in my possession, custody or control.
>
> 14. Accordingly, since I believed that I simply did not have in my possession, custody or control any of the Listed Items, I could not therefore produce or deliver up what I do not have and thus cannot be in breach of the Order (save to the extent that the court feels that I should have filed a "zero return" statement pursuant to paragraph 5 of the Order, in which case I again profoundly apologise and ask the court to take this affidavit as late compliance in respect thereof)."

39. Mr Ahlquist submitted that Ms Khan could not have formed the beliefs set out in paragraphs 9, 10 and 14 or carried out the search to which she referred in paragraph 13 unless she understood the terms of the Miles Order and, in particular, paragraphs 1 and 5. I accept that submission. It would have been impossible for Ms Khan to carry out a personal search for Listed Items unless she understood what the Listed Items were. Moreover, she did not state that she did not read or understand paragraph 5. Her evidence was that she did not believe that she was failing to comply with it because she had nothing to deliver up. She must, therefore, have read and understood it or had it explained to her.

40. However, Ms Khan did not explain when she formed those beliefs or carried out the search which she described. But in paragraph 39 she stated that she had not had access to the SophieK Email Address since May 2022 and in Khan 4 she gave the following evidence at paragraph 109:

> "As to paragraph 53.2 of C skeleton 2, the email address sohiek@sophiekhan.co.uk was a personal email address and its mailbox only contained emails personal to me. I did not use that email address for work purposes. Accordingly, there were no Listed Items in that mail box and, in any case, after the Miles J Order I searched it just to be sure."

41. The obvious inference to draw from this evidence is that Ms Khan fully understood the terms of the Miles Order at the hearing on 27 April 2022 and carried out the search in response to it and shortly after it was made. I am

satisfied that no other inference is possible because it is Ms Khan's own evidence that she did not have access to the SophieK Email Address after May 2022.

42. Mr Bogle relied on the fact that Mr James acted for Ms Khan before Miles J on a Direct Access basis to counter the submission that Ms Khan understood the Miles Order. But I am not satisfied that because she did not have a solicitor to explain it to her, this is sufficient to raise a doubt and it would have been counsel's duty to ensure that she fully understood its terms and effect. But in any event Ms Khan is a former solicitor herself and the Miles Order was in the same or substantially the same terms as paragraphs 1 and 5 of the two orders which I considered in the First Judgment: see [12] and [19]. I, therefore, reject that submission and I am satisfied beyond reasonable doubt, therefore, that Ms Khan knew and understood the terms of the Miles Order and what it required her to do when it was made.

D. Paragraph 1

(1) Accounting Records

43. The Listed Items included any ledgers relating to present or Former Clients (as defined) and all other accounting records relating to the Firm and JFP: see Schedule A, paragraph 3. Ms Khan exhibited 41 pages of accounting records to Khan 1, which consisted of client and office account ledgers dated 31 March 2021 (the "**Ledger**") and bank statements for the Firm's business current account for the period from 2 April 2021 to 20 August 2021 (the "**Bank Statements**"). She gave evidence that she had recently located these documents and was not aware (or had forgotten) that she had them in her possession. I therefore find that by failing to deliver up these documents Ms Khan acted in a way which amounted to a breach of paragraph 1.

(2) The SophieK Email Address

44. The Listed Items also included any incoming and outgoing correspondence, any computer records and any computer, hard disk or server used in connection with the Firm or JFP: see Schedule A, paragraphs 5 to 7. These paragraphs include,

therefore, individual emails sent to or from (or copied to) Ms Khan or the Firm or JFP in connection with their Practices (as defined). Based on exchanges at the hearing before Adam Johnson J on 7 September 2021, Mr Bogle submitted that it did not include the mailbox itself for the SophieK Email Address and for the purposes of the Committal Application I am prepared to accept that Mr Bogle is correct and that if no individual emails in the mailbox fell within any category of Listed Items, then the mailbox itself did not do so either.

45. Ms Khan did not disclose any emails from the SophieK Email Address at all. In Khan 1, she gave evidence that she had not had access to the mailbox since May 2022 (see above) but she was silent about emails sent or received before that date. In his Skeleton Argument dated 26 January 2023 Mr Ahlquist made this point and in Khan 4 (above), Ms Khan gave evidence that it was a personal email address, that she did not use it for work purposes and that it contained no Listed Items.

46. In closing submissions Mr Ahlquist took me to 12 emails (and an attendance note) which Ms Khan had either sent from or received at the SophieK Email Address between 8 April 2021 and 22 April 2021. They related to the claim of a former client, Ms Blackwell, and most of them were sent by or to Ms Emma Norton of the Centre for Military Justice. But they also included two emails from Ms Khan to Ms Blackwell, her former client, and one from Ms Blackwell to Ms Khan herself.

47. Mr Ahlquist also took me to three emails from Mr Robert Shrimpton of Macmillan Williams Solicitors (Ms Khan's former employers) on 11 August 2018, 5 November 2018 and 28 August 2021. They related to a long-running dispute over the costs of claims brought by Mr Corbridge and Mr Naylor against the Chief Constable of the Dorset Police. Finally, he also took me to an email dated 29 January 2018 which appears to have attached a letter on the Firm's letterhead and signed by Ms Khan herself in relation to a claim brought on behalf of Mr Fareed by Mr Hussain, his litigation friend, against the Chief Constable of the West Midlands Police.

48. I reject Ms Khan's evidence that she did not use the SophieK Email Address for work purposes. It is self-evident that the emails to which Mr Ahlquist took me were not personal emails but Listed Items. The subject matter of each one was the business of the Firm and Ms Khan used a signature "Sophie Khan, Solicitor Director – Higher Court Advocate, Sophie Khan & Co Solicitors and Higher Court Advocates". Moreover, beneath this signature she set out the SophieK Email Address together with the Firm's website address and twitter account and gave both the Leicester and Wimbledon addresses as the office addresses of the Firm.

49. Moreover, Ms Khan did not produce any of these emails herself. Ms Crawford had exhibited them all to support her evidence that Ms Khan refused to deliver up the files of former clients either when asked to do so by the clients or by their new solicitors. I find that all of these emails (and any attachments) were Listed Items and that Ms Khan did not to deliver them up after the Miles Order had been made and when she still had access to the mailbox.

50. Mr Ahlquist also submitted that Ms Khan had given the deliberate impression in her four affidavits that the only files which she kept were hard copies and that she did not have any Listed Items in electronic form. I accept that submission for the following reasons:

    (1) It is clear from the emails to which I have already referred that Ms Khan used emails and sent letters electronically to communicate both with her clients and third parties. As Mr Ahlquist pointed out, Ms Crawford was able to point to three separate client matters or files on which she sent and received emails.

    (2) It is also clear that she received and stored case documents from third parties electronically. For example, in the cases of Mr Forcer and Ms Du Preez (below) she accepted that she received and stored electronic disclosure from the coroner.

    (3) I also draw the inference that the Ledger was created electronically. It appears to be a spreadsheet to which individual entries could be added or modified electronically.

(4) Although the Bank Statements record some payments by cheque, Ms Khan appears to have made most of the payments by electronic transfer (as one would expect).

(5) The Ledger records the payment of Court fees and transcribers and it is inconceivable that Ms Khan would have issued applications and paid court fees in person or received transcripts or other correspondence from the Court exclusively by post.

51. I draw the inference, therefore, that the mailbox for the SophieK Email Address contained hundreds, if not thousands, of emails relating to the practice of the Firm, that Ms Khan had a series of folders on her laptop or on the Firm's server on which she stored drafts of documents which she had created for the purpose of the practice of the Firm and also documents which she received or uploaded in pdf or native form. I also draw the inference that she also maintained and stored accounts and ledgers in electronic form. In short, I draw the inference that Ms Khan managed the Firm's Practice electronically in the same way as the vast majority of solicitors.

52. I am not prepared to draw the inference, however, that the failure to deliver up these Listed Items amounted to a breach of paragraph 1 of the Miles Order. It is quite possible that Ms Khan deleted all of emails and electronic files and documents well before the Miles Order was made. As Mr Ahlquist pointed out, this might have been a breach of other Orders which this Court has made, but not a breach of paragraph 1 of the Miles Order which would lead to a finding of contempt. I return to the issue of electronic documents in the context of paragraph 5 (below).

(3) The Beynon File

53. It was also the SRA's case that Ms Khan failed to deliver up a number of specific client files (whether held by her in electronic or hard copy form). The first of those clients was Mrs E Beynon and for the hearing of the first committal application before me Ms Khan adduced in evidence a witness statement made by Mrs Beynon and dated 26 December 2021. In that statement she stated that in 2016 she had instructed the Firm in relation to the inquest following the death of

her husband, Mr S Beynon, and that it had been adjourned twice. Her evidence continued as follows:

> "15. Just For Public Ltd represented my family at the Jury Inquest in October 2021. 16. The Jury was unable to reach a verdict and a new final inquest hearing is due to be listed in the Summer of 2022. 17. Just For Public Ltd continue to represent my family in the inquest proceedings. 18. I do not give consent to Just For Public Ltd to release my case file to the Solicitors' Regulation Authority or to any other organisation, as we need the case file to be able to do the work on the inquest proceedings. 19. I would also like to say that documents on my case file are private and confidential and I only want Just For Public Ltd to hold onto these documents."

54. Ms Khan exhibited this witness statement to her own witness statement dated 26 April 2022 for the hearing before Miles J. In that statement she answered a witness statement (again made by Ms Crawford). She dealt with Mrs Beynon' case file in paragraph 9 as follows (references omitted):

> "In response to paragraph 56, the remaining former clients of the Second Defendant, now with Just for Public Limited, have either been contacted by Gordons LLP or been informed by the Coroner or the Court Service as to the intervention, and I exhibit the witness statements of Mr [ ] McCarthy, Mrs E[ ] Beynon, Mr [ ] Plumbley and Mr [ ] Smith made in December 2021 originally in support of the set-aside applications."

55. Moreover, in his Skeleton Argument for that hearing Mr James gave the following explanation at paragraph 11.2.2:

> "On 10 August 2021, before the intervention, the Second Defendant sold its client portfolio to the Third Defendant, a not for profit organisation. This included the client files of nine clients. Of those clients, three have asked for their papers to be sent to them. The case papers have been supplied to them. (As a consequence, the Defendants dispute what is said at [55] of Ms. Crawford's statement if it is intended to suggest otherwise). The other clients wish their cases to remain with the Third Defendant. They do not wish their files to be delivered: see the statements of Mr [ ] McCarthy, Mrs E[ ] Beynon, Mr [ ] Smith and Mr [ ] Plumbley dated December 2021 that were filed for the set-aside application hearing. Further, these clients do not wish their files to be delivered to the SRA."

56. Following the Miles Order Ms Khan did not deliver up the Beynon file. She gave evidence in Khan 1 that at the end of January 2022 she had hand-delivered the case papers to Mrs Beynon. In the SSA, however, Mr Ahlquist challenged this evidence because JFP had continued to represent the Beynon family at the inquest (again references removed):

> "4. Firstly, Ms Khan contends (paragraph 36) that she and JFP had ceased acting for all relevant clients no later than the end of April 2022. As to this: 4.1 The Court already has before it evidence of JFP representing one of the clients at a pre-inquest hearing on 1 June 2022, in the form of a ruling from the Coroner criticising Ms Khan's involvement in the submissions. 4.2 Moreover, the same Coroner gave a ruling on 31 October 2022, following submissions by Mr Khan of JFP, dismissing an application to allow Ms Khan to question witnesses as a Mackenzie Friend. This ruling is exhibited to Mr Owen's affidavit Each of Ms Khan's personal Twitter account, the connected 'taserlawyer' Twitter account, and JFP's Twitter account, have posted Tweets in November 2022 commenting on the outcome of the same inquest and describing Ms Khan as the Beynon family's lawyer."

57. Ms Khan answered his submissions in Khan 2. Her case was that once the jury had been discharged on 25 October 2021, a new inquest took place at which JFP was instructed by a new client:

> "Paragraph 4.1 – JFP was not representing a former client of either mine or of the Second Defendant ("SK & Co") but a new client, namely Ms V[ ] Beynon and, moreover, in a fresh inquest, the jury having been discharged in the former inquest on 25 October 2021, long before the Miles J Order. V[ ] Beynon became a client in January 2022. The former client of mine or of SK & Co was Mrs E[ ] Beynon and that was for the inquest prior to the discharge of the jury on 25 October 2021 and she ceased some time thereafter to be a client. Ruling 1 of the Coroner of 1 June 2022 ("Ruling 1") given at the pre-inquest review hearing ("PIR") deals with the common law discretion and the issue of permission under rule 19(1) of the Coroners (Inquests) Rules 2013 to address the Coroner and examine witnesses. Since the client was a new client, it has no relevance to the subject matter of this contempt hearing and of delivery-up, or non-delivery, of the documents required by the Miles J Order. Inclusion of Ruling 1 in the evidence has only the purpose, therefore, to influence the court against me by smear and by material that is prejudicial and not probative.
>
> Paragraph 4.2 – this refers to the very late evidence of Mr John Owen in his affidavit dated 1 December 2022 and to Ruling 2 of the Coroner of 31 October 2022 ("Ruling 2"), given at the

> commencement of the fresh inquest, and, since, as stated above, JFP's client was a new client, Ms V[ ] Beynon, in a fresh inquest, the same applies as for paragraph 4.1. It is not relevant to the Miles J Order nor, therefore, to this contempt application and is another attempt to smear me by material that is prejudicial and not probative.
>
> Paragraph 4.3 – relates to three twitter posts which were made by me but which each quote the words of a media outlet entitled "Wales Online". Although I have quoted those words, they are not mine but those of the media outlet quoted verbatim. As stated above, the client of JFP was a new client in a fresh inquest and not a former client of mine or SK & Co. As I stated in paragraph 38 of my first affidavit, the case papers were, indeed, returned to Mrs E[ ] Beynon at the end of January 2022."

58. Ms Khan added details to her account in Khan 3 and Khan 4. For example, she gave evidence that Mrs E Beynon told her (and she believed) that Ms V Beynon was estranged from the remainder of her family. When Ms Crawford drew attention to the fact that at a pre-inquest review the coroner had addressed his remarks directly to Mrs E Beynon, Ms Khan parried that evidence by stating that Ms V Beynon was in a waiting room taking a call to her son's school. She also pointed out that in the agenda for that hearing the coroner had stated: "It is believed that Mr Beynon's daughter is taking the lead in the present phase."

59. I reject Ms Khan's evidence that she ceased to act for Mrs E Beynon in January 2022 and then handed back her case file or files. I find that JFP had Mrs Beynon's case file in its possession or control until at least 27 April 2022 and that JFP's failure to deliver it up to the SRA was a breach of paragraph 1 of the Miles Order. I make these findings for the following reasons:

    (1) In her statement dated 26 April 2022 Ms Khan referred to Mrs Beynon as one of "the remaining former clients of the Second Defendant, now with Just For Public Limited". I am satisfied, therefore, that JFP was still acting for Mrs Beynon at the date of the Miles Order.

    (2) Although Mrs Beynon had made her statement four months earlier, Ms Khan exhibited it herself and presented it to the Court on the basis that the position as stated by Mrs Beynon remained unchanged. If she was no longer acting for Mrs E Beynon but for Ms V Beynon under a new retainer,

I have no doubt that she would have said so and relied on the fact that Ms Beynon was not a client or former client of the Firm or JFP but a new client who did not fall within the order which Miles J was being asked to make.

(3) Moreover, it is clear from his Skeleton Argument that her counsel, Mr James, understood Ms Khan's evidence in the same way. He referred the Court to her evidence and stated: "The other clients wish their cases to remain with the Third Defendant. They do not wish their files to be delivered". I am satisfied that this reflected both her evidence and her instructions to Mr James at the time.

(4) I am satisfied, therefore, that that the witness statement which Mrs Beynon had signed on 26 December 2021 accurately reflected the position on 27 April 2022, namely, that JFP continued to represent her family and had her case file in its possession and control at that date and that she wanted JFP to hold on to it.

(5) Ms Khan produced no documentary evidence to support her evidence that JFP's retainer from Mrs E Beynon had come to an end and that it had accepted a new retainer from Ms V Beynon. If Ms Khan kept proper records, she would have been able to produce the original engagement letter from Mrs E Beynon, a letter confirming the termination of the retainer. She would also have produced a new engagement letter to Ms V Beynon.

(6) Moreover, I am satisfied that Ms Khan asked her clients to sign engagement letters and I found a number of them exhibited in evidence. For example, Ms Khan disclosed a copy of her standard form engagement letter dated 15 November 2017 on the Humpston file (below).

(7) I would also have expected Ms Khan to ask for a receipt from Mrs E Beynon to acknowledge receipt of the file and either a formal letter or an email to Ms V Beynon explaining what documents JFP had received on her behalf. She produced neither.

(8) But even if a new retainer had come into existence, I find highly improbable that Ms Khan would have handed back her case file to Mrs E Beynon, asked Ms V Beynon to make a copy and then to provide that copy to her instead. A lay client would have been mystified by this request and simply asked Ms Khan to keep the original documents.

(9) In conclusion, I accept Mr Ahlquist's submission that this was an example of Ms Khan deliberately seeking to exploit ambiguities in some of the documents (and, in particular, the coroner's rulings) to come up with a new explanation for her failure to hand over the Beynon file. For example, a number of the documents refer to JFP acting for the Beynon family rather than Mrs E[ ] Beynon personally and, in my judgment, Ms Khan's evidence was no more than an ingenious attempt to exploit this ambiguity to avoid the conclusion that she had misled the Court.

(4) The Humpston Files

60. I turn next to the client files of Mr Humpston. These files have a very involved history and in order to make sense of the evidence, it is necessary for me to set out some of that history as briefly as possible. I take the background from the decision of Sir Gerald Barling in *Khan v the Solicitors Regulation Authority Ltd* [2022] EWHC 484 (Ch) (in which he dismissed Ms Khan's intervention challenge) at [55] and [56]:

> "In September 2017 a Mr Humpston instructed the Firm in relation to two claims against Kent Police and Ashford Borough Council. In May 2018 he decided he no longer wished to instruct the Firm and asked for his papers to be returned and for a copy of the complaints procedure. The following month he sent a letter of complaint to the Firm, and in September 2018 he made a complaint to the SRA about SK and the Firm. In March 2019 the SRA requested information from SK by 3 April 2019. She replied in May stating that having reviewed Mr Humpston's file she could not see what assistance could be gained from the documents sought. Mr Humpston then complained to the Legal Ombudsman about SK and the Firm. The SRA wrote again in August 2019 pursuing the original request for documents. SK declined the request on the basis that the Ombudsman was already investigating the same issue.
>
> In September 2019 the Ombudsman made a misconduct referral to the SRA, reporting that SK had failed to co-operate with the

> Ombudsman's investigation into the complaint, had requested unreasonable extensions of time, and failed to provide requested documents. In November 2019 the Ombudsman issued a final decision, finding the Firm's service was unreasonable in some of the respects alleged by Mr Humpston. The Firm was ordered to pay £250 in compensation and within 30 days to send all documents to Mr Humpston. The Firm did not comply, and after a number of unsuccessful attempts to obtain the Firm's compliance, on 22 January 2020 the Ombudsman made a further misconduct referral to the SRA. This resulted in the SRA issuing a further document production notice to the Firm under section 44B of the 1974 Act requiring the Firm to produce full client files and ledgers for Mr Humpston's matters. SK continued to object to the production notice and to resist compliance. In October 2020 the SRA's solicitors sent a letter before action to SK."

61. For the purposes of this judgment, it is necessary for me to focus on the complaint to the Legal Ombudsman (the "**Ombudsman**"). On 30 October 2019 Mr Amir Pathan, the investigator dealing with that complaint for the Ombudsman, issued a "**Case Decision**" in which he recorded that the Firm was purporting to exercise a lien over Mr Humpston's files:

> "1.2 The firm have informed me that they took on two of Mr Humpston's claims; the first against the police which was publicly funded, and the second relating to traffic wardens on a private basis. The firm say that for the first claim, they were waiting for the conclusion of Mr Humpston's criminal matter and for his full file to be released from his former solicitors. For the second claim they were providing a second opinion, as Mr Humpston had previously received negative advice. They say their advice was also negative which Mr Humpston was unhappy with They say Mr Humpston subsequently terminated the retainers with them."
>
> "2.11 I consider the firm are failing to release Mr Humpston's documents to him and this amounts to unreasonable service. Their argument that the reason for this is because a lien is being exercised over its release, is unsubstantiated because they have provided no information to Mr Humpston about the final cost of his matter, other than an estimate at the outset. I appreciate it will be frustrating for Mr Humpston, in not being able to get his documents back. For clarity, I am not questioning the level of fees charged here because I do not know what they are and no invoice has been raised, but rather, whether there has been an agreement relating to the fees which now means until they are settled the documents will not be released. The appropriate remedy here is that Mr Humpston's documents are returned to him without delay. I will address any further remedy that may be warranted at the end in my summary."

62. On 26 November 2019 the Ombudsman produced a final decision (the "**Final Decision**") which incorporated the findings which Mr Pathan had made in the Case Decision. Ms Khan made detailed written representations in answer to the Final Decision and I can set out both the relevant paragraphs from the decision itself and her objections to it from her representations dated 26 July 2021. The following passage shows that her position remained unchanged and she was still continuing to assert a lien (original emphasis):

> "Complaints Ground 2 (release of file)
>
> At Complaints Ground 2, it says this:
>
> **"The firm rejected the Investigator's finding. There are two key grounds to its position -- (i) it is entitled to exercise a lien because Mr Humpston has not paid its costs and (ii) it is not a genuine request for the documents and Mr Humpston cannot be distressed if they are not returned because he cannot proceed with the claim.**
>
> **I note that the firm has referred to the law on the rights of solicitors to exercise a lien over documents. As a general point, I note that whilst I may have regard to the approach a court would take, I am not bound by this. Ultimately my decision is to be made based on what I consider to be fair and reasonable in the circumstances."**
>
> The Legal Ombudsman recognises the law on the rights of solicitors to exercise a lien over documents but does not feel it is bound by "the approach a court would take".
>
> We submit that the Legal Ombudsman is wrong in law, and is bound by "the approach a court would take."
>
> It therefore follows, that if the law permits our firm the right to exercise a lien over documents, then that right, cannot be fettered by the rules of the Legal Ombudsman. Under those circumstances, we can hold onto Mr Humpston's file, being the correspondence Mr Humpston put together and sent to our firm recorded delivery, please see email correspondence from Amir Pathan on 23 September 2019 at 13:56."

63. On 19 August 2021 the Adjudication Panel of the SRA (which consisted of three members) (the "**Panel**") published its decision to authorise the intervention (the "**Panel Decision**"). One of the arguments which the SRA advanced in support of the intervention was that Ms Khan had failed to comply with both the Case

Decision and the Final Decision. The members of the Panel reached the following conclusion at 5.40.4 of the Panel Decision:

> "It would appear that Miss Khan has no intention of complying with the decision of the ombudsman. She said that it cannot "overrule" her equitable lien paperwork. Having reviewed the extensive representations made by Miss Khan about this point, we cannot see any case law that supports her assertion that the ombudsman is not able to direct that a solicitor should return paperwork to its owner. Furthermore, and in any event, this does not properly explain why Mr Humpston has not received the compensation he was awarded."

64. Finally, when Ms Khan's challenge to the intervention was heard by Sir Gerald Barling on 27 and 28 January 2022 Ms Khan's counsel, who was again Mr James, conceded that there was sufficient material to enable the Panel to find that Ms Khan had committed breaches of the relevant conduct rules. In particular, he conceded that the Panel was entitled to make findings which included those at 5.40.4 (above).

65. I turn now to the evidence before me. One of the complaints which Mr Owen made in his written evidence was that a firm called Scott Moncrieff & Associates Ltd ("**SKA**") had chased the Firm in 2020 and 2021 for copies of Mr Humpston's files. Ms Khan's evidence in Khan 3 in answer was that in late September 2018 or early October 2018 Mr Humpston had terminated the Firm's retainer and she had handed the files over to a firm called GT Stewart Solicitors and Advocates ("**GTS**"). She also said that she could not recall the chasing correspondence from SKA.

66. In reply, Ms Crawford drew attention to the fact that Mr Humpston had instructed GTS before and not after he had instructed Ms Khan and the Firm and that after he had terminated her retainer, he had then gone on to instruct a firm called Higgs Newton Kenyon Solicitors ("**HNK**") before finally instructing SKA. Ms Crawford exhibited correspondence showing that by letter dated 24 November 2017 the Firm informed GTS that it had been instructed by Mr Humpston and that on a number of occasions up until 22 May 2018 GTS had provided electronic copies of their file together with a hard copy and a disc (containing evidential material). She also exhibited an attendance note of a

telephone conversation which took place on 12 October 2018 between Ms Jessica Smith of HNK and Ms Khan and which recorded that Ms Khan had refused to hand over the file because the bill was unpaid.

67. Ms Khan replied to this evidence in Khan 4. She stated that she had remembered that she had some documents relating to Mr Humpston's complaint to the Ombudsman in her defence file for the proceedings before the SDT and that she had now instructed her solicitors to provide copies. She then stated: "The remainder of my defence file contains only documents that were supplied to me by the SRA in the SDT proceedings." She also drew a distinction between three files: (i) the file for the criminal case in which GTS had acted for Mr Humpston before he instructed the Firm (and for which GTS had given a reference HUM19/1), (ii) the file relating to a claim against the police (SOK/Humpston/051) ("**File 051**") and (iii) the file relating to a claim arising out of a traffic warden dispute (SOK/Humpston/051-2) ("**File 051-2**").

68. Ms Khan's evidence in relation to Files 051 and 051-2 was as follows. She stated that Mr Humpston had instructed GTS a second time and that she sent File 051 to them in late September 2018 or early October 2018. She also produced and exhibited a letter dated 9 August 2018 from GTS to the Firm asking for the file and enclosing a form of authority from Mr Humpston. Her comment about this letter was as follows: "Mr Stewart appears to have forgotten about this letter or did not know about it."

69. She also exhibited an email dated 12 October 2018 from Ms Smith of HNK together with another signed authority from Mr Humpston asking for the file "in respect of an incident which occurred in 2014". Her evidence in relation to this file was as follows:

> "SOK/Humpston/051-2 consisted of copy correspondence to Mr Humpston from Tuckers solicitors, his previous solicitors, provided to SK&Co directly by Mr Humpston. In 2018, SK&Co was exercising a lien over these documents due to unpaid fees and I informed HNK of this. In light of the planned sale of the business of SK&Co to JFP on 10 August 2021, I decided to write off the fees due and owing from Mr Humpston in respect of that file and, instead, returned SOK/Humpston/051-2 to the client by post."

70. Finally, Ms Khan gave evidence that she no longer had a copy of any covering letter, postal delivery receipt or documentary evidence in relation to the return of Mr Humpston's files. She did not explain how or why she was able to produce a copy of the letter from GTS dated 9 August 2018 which was sent by post and date-stamped 13 August 2018 or the email from HNW dated 12 October 2018. But I note that when Janes disclosed these documents to Capsticks on 30 January 2023, the only explanation which they gave in the covering email was as follows: "Our client understands you have not previously seen these documents as they did not form part of the SDT proceedings."

71. Ms Khan admitted that she failed to disclose documents relating to Mr Humpston's complaint to the Ombudsman and her failure to do so clearly amounted to a breach of paragraph 1. But I also reject Ms Khan's evidence that in 2018 she handed over File 051 to GTS and that in 2021 she returned File 051-2 by post to Mr Humpston. I find that the Firm and Ms Khan had both files in their possession or control until at least 27 April 2022 and that their failure to deliver them up to Mr Owen was also a breach of paragraph 1. I make these findings for the following reasons:

    (1) Ms Khan produced no documentary evidence to support her evidence that she had sent File 051 to GTS and File 051-2 to Mr Humpston himself. She claimed to have returned or shredded her client files and no longer to have any covering letter or delivery receipt. But if she kept a copy of the letter from GTS dated 9 August 2018, I would have expected her to keep a copy of the reply, of any letter enclosing the file and any delivery receipt.

    (2) It is clear that the complaint to the Ombudsman related not only to the traffic wardens dispute (in which Mr Humpston was charged with threatening behaviour) but also to the claim against the police. This is clear from not only Sir Gerald Barling's judgment but also from the Case Decision, the Final Decision and the Panel Decision. If Ms Khan had returned one file and had only been asserting a lien in relation to the other, the complaint would have related to that file and the Case Decision (and all subsequent decisions) would have recorded the return of File 051 to GTS. None of them suggest that this was done.

(3) In her representations dated 26 July 2021 Ms Khan continued to resist compliance with the Ombudsman's decision on the basis that the Firm was entitled to assert a lien over Mr Humpston's files. Indeed, she stated in terms: "Under the circumstances, we can hold onto Mr Humpston's file". I am satisfied that she was referring not only to File 051 but also to File 051-2.

(4) I also consider it highly improbable that Ms Khan had a change of heart between 26 July 2021 and 12 August 2021 and decided to write off the fees and return Mr Humpston's files. But if she had, she would have informed the Panel immediately that she had returned the file and before it handed down the Panel Decision on 19 August 2021. Moreover, she would not have conceded that it was entitled to make the findings in 5.40.2 before Sir Gerald Barling.

(5) Finally, I am not satisfied that the letter dated 9 August 2018 (or the email dated 12 October 2018) formed part of Ms Khan's defence file for the proceedings before the SDT and Janes had to admit that she had never disclosed it before. I am driven to the conclusion that Ms Khan retained (and retains) the Humpston files and chose to disclose that letter in a bid to lend credibility to her earlier evidence that she had returned the file to GTS. Given that GTS had been acting for Mr Humpston before the Firm was instructed, the only way in which she could lend credibility to her evidence that she had returned the file to them after she had ceased to act, was to produce that letter.

(5) The Blackwell File

72. By email dated 7 September 2021 Ms Norton wrote to Mr Owen asking for his assistance to obtain Ms Blackwell's client file. She was particularly concerned to obtain her client's handwritten statement and a draft statement for another witness. Ms Khan's evidence was that the Firm acted for Ms Blackwell from November 2020 to March 2021 and that she returned the file by post between April and June 2021.

73. By email dated 16 January 2023 Ms Blackwell confirmed that she has not received a copy of her file or any of the documents contained in it. She also stated that she repeatedly asked for it but it was not returned. Ms Norton also made a witness statement setting out a complete copy of the email correspondence between her and Ms Blackwell and Ms Khan. This shows that Ms Khan initially tried to contact or see her former client but when Ms Blackwell refused to see or speak to her, she ignored Ms Norton's chasing emails. Ms Khan did not explain why it was necessary for Ms Norton to chase her or why she did not respond or why there is no email record of the return of her file. The only explanation which she could give was that Ms Blackwell suffered from PTSD and must have forgotten that she had received the file.

74. I reject Ms Khan's evidence that she returned her file to Ms Blackwell between April and July 2021 and I accept Ms Norton's evidence that she did not receive the Blackwell file from Ms Khan. I also accept the contents of Ms Blackwell's email dated 16 January 2023. Neither had any reason to mislead either the SRA or the Court and their evidence is supported by the contemporaneous documents exhibited by Ms Norton. If Ms Khan had returned the file after 22 April 2021 (which is the date of the last request by Mr Norton) she would, in my judgment, have sent an email to Ms Norton confirming that she had returned it to Ms Blackwell directly. She would also have kept a copy of the covering letter. She produced neither.

75. I accept that it is possible that Ms Khan might not have kept a record of returning one or two client files. I also accept that it is also possible that one or two clients might have been mistaken when they informed their solicitors or Capsticks that Ms Khan had not returned them. But I am satisfied that Ms Norton and Ms Blackwell were not mistaken for two reasons. First, Ms Khan produced no documentary evidence to substantiate her assertions that she returned a large number of client files. Secondly, all of the clients or solicitors whom the SRA contacted to verify Ms Khan's evidence, confirmed that she had not returned their files often explaining in detail the lengths to which they went to obtain them.

76. I am not satisfied, however, that I can properly draw the inference that Ms Khan's failure to deliver up the Blackwell file amounted to a breach of paragraph 1. The Firm had ceased to act for Ms Blackwell in 2021 and it is possible that Ms Khan destroyed the file before 27 April 2022 rather than deliver it up to Ms Norton or to the SRA. I therefore return to the Blackwell file in the context of paragraph 5 (below).

(6) The Coulthard Files

77. In his Supplemental Skeleton Argument for the hearing on 6 December 2022 Mr Ahlquist also pointed out that Ms Khan had not dealt with the files of a number of clients whose claims had been the subject matter of the intervention and, in particular, the files of Mr Corbridge, Mr Naylor, Mr Martin and Mr and Mrs Coulthard. Ms Khan addressed this point in Khan 2:

> "As to the remainder of paragraph 6.1, the cases mentioned therein (and referred to in the intervention decision of the Claimant), all long pre-date the Miles J Order. The cases of Mr Corbridge and Mr Naylor concluded in 2015 and papers were retained by the clients and not the Defendants. The cases of both Mr Martin and Mr and Mrs Coulthard concluded in 2017 and papers were retained by the clients and not the Defendants. Thus long before the Miles J Order, the Defendants had ceased to have any of these papers in their possession, custody or control."

78. In reply, Ms Crawford drew attention to a witness statement dated 27 August 2019 in which Ms Khan had given evidence that she had delivered the original Coulthard and Martin files by hand to the SRA on 21 May 2019. Ms Crawford also drew attention to a witness statement dated 24 September 2021 in which (so she said) Ms Khan had accepted that she could provide copies to the SRA and offered to make arrangements to do so. Mr Ahlquist submitted, therefore, that her evidence (above) was false because Ms Khan still had copies of both files in her possession and control on 24 September 2021.

79. I should also record that in earlier proceedings the SRA had made an application to enforce a production notice dated 4 August 2017 and that Master Clark rejected Ms Khan's evidence about delivering these files to the SRA and found that she had not complied with the notice. However, Mr Ahlquist did not rely on

that finding in support of the Committal Application given that it was a finding to the civil standard. Nevertheless, he relied on the fact that once the delivery of the files to the SRA had been put in issue, Ms Khan made a witness statement offering to produce them as evidence that copies of both files (if not the originals) were in her possession or control on the date when she made it.

80. Ms Crawford also exhibited emails or text from both clients and their solicitors. In an email dated 18 January 2023 Mrs Coulthard wrote to Capsticks stating emphatically that Ms Khan had not delivered the original file to the SRA (as she had also claimed before) and that she had never received her files back from Ms Khan. In an email also dated 18 January 2023 Mr Heath Thomas of Harrison Clark Rickerbys ("**HCR**"), Mr Martin's present solicitors, wrote to Capsticks stating that on 25 April 2016 and 16 May 2017 he wrote to Ms Khan asking for the file and chased her again for it on 22, 26, 29 and 30 January 2018 but never received it. He also produced a text from Mr Martin himself confirming that he had not received the file.

81. Ms Khan addressed the Coulthard and Martin files again in Khan 4. She accepted that her evidence in Khan 3 appeared "somewhat ambiguous" and she apologised for any confusion:

> "When I stated "papers retained by the clients" and "long before the Miles J Order", I was referring to the non-retention of the papers and not referring back to the year 2017 which was merely the year the cases concluded. However, I accept that the last 2 sentences of paragraph 9 may appear somewhat ambiguous and I apologise for any confusion caused thereby."

82. Ms Khan also admitted that she had retained a copy of the Coulthard files for use in the intervention but now alleged that she no longer had them. Her evidence was that she asked her brother, Yusuf, to send the files to her whilst in prison and that he confirmed that he had sent them to her but that they went missing either in the post or in the prison system. She stated that she had made inquiries on the prison authorities and chased for a response. She did not produce any correspondence to support this evidence.

83. I do not accept Ms Khan's contention that Khan 3 was ambiguous. In my judgment, the obvious interpretation of her evidence in that affidavit – and the one which she intended to convey to the Court – was that she and the Firm did not retain the Coulthard and Martin files after the conclusion of the litigation in 2017. I also reject her evidence that she asked her brother to post the file to her in prison and that it went astray. I accept Mr Ahlquist's submission that this was a convenient excuse which she advanced when her previous inconsistent statements were exposed by Ms Crawford. It is quite likely, therefore, that Ms Khan had the file in her possession or control after she came out of prison and at the time of the Miles Order.

(7) The Martin File

84. Ms Khan repeated in Khan 4 her earlier evidence that she had delivered the original of the Martin file to the SRA on 21 May 2019 but added that she did not keep any copies of it. She claimed that Ms Crawford had misrepresented her evidence and that she had only intended to refer to the Coulthard files in her witness statement dated 24 September 2021. It is necessary, therefore, for me to set out the paragraphs from the Final Decision to which Ms Khan was responding in that statement:

> "5.41 Since the first production notice was issued to the firm on 4 August 2017, Miss Khan has given varying explanations as to why she is unable to comply, in summary:
>
> ● The firm was exercising a lien and would only produce the files if the SRA gave an undertaking not to release paperwork to the clients.
> ● The Martin file would be produced by 31 August 2017.
> ● The Coulthard files were being costed and could not be produced.
> ● The firm would apply for a judicial review of the SRA's refusal to give an undertaking.
> ●She undertook to produce the files by 12 January 2018. She then rescinded her undertaking as the firm was exercising proprietary rights.
> ● There was no merit in the reports and no justification for a production notice.
> ● She did not have permission to release Mr Martin's file and wanted authority from his new solicitors.
> ● The files were delivered to the SRA on 21 May 2019 and the SRA has lost them.

> 5.42 In her representations dated 10 August 2021, Miss Khan now repeats her earlier argument that the production notice is ill founded and there is no justification for it. This is at odds with her suggestion that she has already complied, and we repeat that had she already produced a copy of the documents it would be very easy for her to do so again.
>
> 5.43 Miss Khan's duties are clear. She needed to comply with her regulatory obligations in an open, timely and co-operative manner. She has failed to do so in breach of Principle 7 (2011). She has produced some, limited, documentation. She has only done so after years of prevarication and obfuscation. She has given repeated and conflicting reasons for her non-compliance. An individual complying in an open, timely and co-operative manner would have produced the documents prior to 21 May 2019 in any event, but once they had been apparently lost, would readily produce another copy. Miss Khan has not complied promptly, in breach of Outcome 10.8 of the 2011 Code, nor has she provided all the information and explanations failure to provide the documentation, even on her own case, until 21 May 2019, and then her continuing failure to correct the position once the files were supposedly "lost", is a continuing failure to comply with paragraph 7.4 of the Solicitors code, and paragraph 3.3 of the Firm's code."

85. Mr Bogle took me to the relevant paragraphs of Ms Khan's witness statement dated 24 September 2021 in which she offered to make the file available and gave the following evidence in response to the passage immediately above:

> "103. In response to paragraph 5.41, by 13 October 2017, a complete copy of Mr Mark Martin's case file had been provided to the SRA and on 15 March 2019 permission was sought from Mr Martin to release the original case file to the SRA, as he had previously instructed the Second Claimant to send his case file to the firm, Harrison Clark Rickerbys. The original case files of Mr [ ] Martin, Mr [ ] Coulthard and Mrs [ ] Coulthard (nee [ ]) were delivered to the SRA on 21 May 2019.
>
> 104. In response to paragraph 5.42, I have argued that the Production Notice dated 4 August 2017 was issued without lawful justification, and I am within my rights to do so, if I believe the delegated power has been abused. As mentioned above, there has been compliance with the Production Notice.
>
> 105. In response to paragraph 5.43, there has been compliance with the Production Notice dated 4 August 2017, and all information and explanations requested by the SRA has been provided. At no point had the SRA communicated to the Second Claimant that the files delivered on 21 May 2019 were supposedly "lost" and to send a copy of the copy files. As mentioned above, arrangements can be made with the SRA to provide a copy of the copy files."

86. I reject Ms Khan's evidence that she did not keep a copy of the Martin file and only intended to refer to the Coulthard files in paragraph 105 (and also in paragraph 97 which I have not quoted but is to the same effect). She referred in both paragraphs to the files which she claimed to have delivered on 21 May 2019 and offered to provide copies of those files. Moreover, she was answering the criticism in paragraphs 5.43 of the Panel Decision that she should have provided copies of both the Coulthard and Martin files once the SRA claimed not to have received them. In my judgment, it is quite likely that Ms Khan also had the Martin file in her possession or control after she came out of prison and at the time of the Miles Order.

(8) The Corbridge and Naylor Files

87. Ms Crawford exhibited emails dated 18 January 2023 from Mr Corbridge and Mr Naylor who both confirmed that they had not received any files or documents from Ms Khan. She also exhibited a chronology and documents which demonstrated that although both claims were settled in July 2015 the costs dispute continued until November 2020. Mr Ahlquist submitted that Ms Khan's evidence that she returned the files in 2015 (above) was incredible and that it was highly improbable that she would have returned the files whilst a costs dispute was ongoing and she needed access to the files to justify her costs to the costs judge if the dispute could not be settled.

88. Ms Khan disputed Mr Ahlquist's interpretation of her earlier evidence in Khan 4 and said that what she meant was that the case itself was concluded in 2015 but that the clients retained the files on 27 April 2022. She said that the majority of the Firm's litigation files had been closed by the sale to JFP and that in or around July 2021 the files were either returned to the clients or shredded to avoid storage costs. In relation to the Corbridge and Naylor files she stated as follows:

> "The damages files in the Corbridge and Naylor cases being no longer required were shredded in July 2021. The only outstanding matter was chiefly about the costs of the costs assessment. The SRA has already had a full copy of all my documents in that costs dispute since they were exhibited to my representations and statements in the Intervention proceedings."

89. I reject Ms Khan's evidence in relation to the Corbridge and Naylor files. In my judgment, the obvious meaning of the evidence which she initially gave – and the one which she intended to convey to the Court – was that she did not retain the Corbridge and Naylor files after the conclusion of the litigation in 2015. But either way, her earlier evidence that the clients retained their files is inconsistent with her later evidence that she shredded the files in July 2021. Nevertheless, it is not possible for me to be satisfied to the criminal standard that Ms Khan had these files in her possession or control on 27 April 2022 and whether the failure to deliver up the files amounted to a breach of paragraph 1. I therefore return to these files in the context of paragraph 5 (below).

(9) The Baxter File

90. Ms Crawford also exhibited correspondence from other clients who said that they had not received their files from the Firm. Ms Khan's evidence was that in December 2021 Mr Baxter collected his file in person from JFP. By email dated 17 January 2023 Mr Baxter stated that: "I J[ ] Baxter did not receive files from Ms Sophie Khan on the said dates." Ms Khan challenged this email on the basis that Mr Baxter's English was not good and that he might not have written the email himself.

91. Again, I reject Ms Khan's evidence in the absence of any documentary evidence to corroborate it and clear statements from both Mr Baxter and other former clients that she had not returned their files. But I am not satisfied that I can draw the inference that Ms Khan or JFP had the file in their possession or control at the date of the Miles Order and that Ms Khan's failure to deliver up the file amounted to a breach of paragraph 1. I also return to this file in the context of paragraph 5 (below).

(10) The Shillito File

92. Ms Khan gave similar evidence that in December 2021 Mr Shillito had collected his file in person from JFP. By emails dated 14 and 16 January 2023 Ms Ruth Bundy of Harrison Bundy, his new solicitors, stated that Mr Shillito had provided her with loose copies of some statements but nothing that could be described as a "file". Ms Khan continued to maintain that he collected his file in

December 2021. Again, I reject Ms Khan's evidence and accept the evidence from Ms Bundy for the reasons which I have given in relation to the Blackwell and Baxter files. But, again, I am not satisfied that I can draw the inference that Ms Khan's failure to deliver up the Shillito file amounted to a breach of paragraph 1.

(11) Mr Forcer

93. It was Ms Khan's evidence that Mr Forcer was a client of the Firm from 2020 until 10 August 2021, that the Firm held disclosure files provided by the coroner electronically and that she deleted these electronic files when he ceased to be a client. Ms Crawford challenged this evidence on the basis that it would have been a breach of the Order made by Adam Johnson J to delete these files after 21 September 2021. Ms Khan's evidence in reply was that she could not recall when she deleted them. In my judgment, it is not possible to be satisfied that to the criminal standard that Ms Khan or the Firm retained possession or control of these electronic files on 27 April 2022. I therefore deal with the failure to provide this information until Khan 4 in the context of paragraph 5 (below).

(12) Mr Mahoney

94. Ms Khan also gave evidence that Mr Mahoney was a new client of JFP and that the SRA had no right to claim delivery up of his file. Ms Crawford challenged this evidence because Mr Mahoney was shown as a client of the Firm in the Ledger. Ms Khan then accepted that Mr Mahoney had been a client of the Firm very briefly and that he had been billed for one conference but stated that in 2021 he instructed JFP as a new client. She complained that at no point had she said that Mr Mahoney had <u>never</u> been a client of the Firm. She produced no documents to support this evidence or to show that there were two separate retainers.

95. It is impossible for me to decide whether Mr Mahoney instructed JFP in relation to a new matter and, if so, whether it gave rise to a new retainer. But in any event, I am satisfied that Ms Khan intended to mislead the Court and give the impression that the Firm had never acted for him. Moreover, even if a new retainer came into existence, Ms Khan was required either to deliver up any

Listed Items relating to the Firm's earlier retainer from the Firm or to explain what she had done with them. She did neither. Moreover, because she failed to do so, it is not possible for me to decide whether she committed a breach of paragraph 1 of the Miles Order. I return to this client, therefore, in relation to paragraph 5 (below).

(13) The Hussain File

96. Ms Crawford identified two further clients of the Firm whom Ms Khan had not addressed in her evidence. The first client was Mr Hussain, who acted as the litigation friend of his brother, Mr Fareed, and in a witness statement dated 2 July 2022 he gave evidence that the Firm had acted for him between 2014 and 2019 and exhibited an email dated 15 December 2020 in which his new solicitor, Mr Antony Schiller of Dennings Solicitors, had invoked the Firm's complaints procedure for the failure to respond to Mr Hussain's instructions. He also exhibited an email dated 28 January 2021 in which Mr Schiller had made a complaint to the SRA. Ms Khan's evidence was that she shredded the file between April and July 2021.

97. It is not possible for me to determine to the criminal standard whether the Firm had possession or control of the Hussain file on 27 April 2022 or whether (as she asserts) Ms Khan destroyed this file between April and July 2021. I have to say that I consider it unlikely that she would have shredded it during that period and only a few months after Mr Schiller's complaint to the SRA. But it is not possible for me to draw an inference to the criminal standard that she kept it until the Miles Order was made. I return to this file again in the context of paragraph 5 (below).

(14) Ms Du Preez

98. The second client was Ms Du Preez, who made a witness statement dated 26 December 2021, in which she stated that in April 2021 she instructed the Firm to act and that the case had been transferred to JFP. Ms Khan's evidence was that that JFP held disclosure files provided by the coroner electronically and that she had deleted these electronic files in April 2022. Again, it is not possible for me to determine to the criminal standard whether Ms Khan or JFP had possession or

control of these electronic files on 27 April 2022 and I deal with these files again in the context of paragraph 5 (below).

(15) The Ledger

99. Finally, Ms Crawford drew attention to 15 additional clients of the Firm named in the Ledger whom Ms Khan had not identified and whose files she had not produced. Ms Khan's evidence was that she shredded all of these files apart from one which she returned to the client. Again, it is not possible for me to be satisfied to the criminal standard that Ms Khan or the Firm retained any of these files in their possession or control on 27 April 2022. I therefore deal with the failure to provide this information until Khan 4 in the context of paragraph 5 (below).

(16) Overall Findings

100. I am satisfied beyond reasonable doubt and to the criminal standard that Ms Khan's conduct in failing to deliver up the Ledger and Bank Statements, the Beynon File and the Humpston files amounted to breaches of paragraph 1 of the Miles Order. In reaching this conclusion I have taken the following additional factors into account:

(1) Ms Khan admitted breaches of the Miles Order in failing to deliver up the Ledger, the Bank Statements and a tranche of documents relating to Mr Humpston's claim. There can be no doubt in relation to those breaches. Further, Ms Khan made no real attempt to explain where those documents were stored and how she located them. The obvious inference to draw is that on 27 April 2022 she retained them with other Listed Items which she chose not to produce or disclose.

(2) Mr Ahlquist submitted that Ms Khan has made just too many incorrect or inconsistent statements unsupported by documentary evidence that they cannot be mistaken and that the Court can be satisfied that Ms Khan has made a sustained and deliberate attempt to mislead the Court. I accept that submission and I am satisfied beyond a reasonable doubt that Ms Khan has deliberately attempted to mislead the Court. In particular, Ms Khan's

evidence that she only used the SophieK Email Address for personal emails and not for work was exposed as false and the inescapable inference which I draw is that Ms Khan gave that evidence knowing to be untrue.

(3) I have also reached this conclusion because most of the evidence which Ms Khan has given in relation to the client files of the Firm and JFP is unsupported by any documentary evidence at all and is inconsistent with previous statements which she made to the Court, the SRA and the Ombudsman or with emails from the clients themselves or evidence given by their solicitors. The probative force of this evidence when viewed as a whole has convinced me that there is no reasonable doubt that Ms Khan committed the breaches of paragraph 1 which I have found: see *JSC BTA Bank v Ablyazov (No 8)* (above).

(4) In reaching this conclusion I have relied not only on the inconsistencies in Ms Khan's evidence and the lack of documentary support but also upon an interview which Ms Khan gave to City AM and which was published on 3 May 2022. In that article she was quoted as saying:

> "In her own words, Khan said she refused to hand the documents over as her clients "have cases against the police and the Ministry of Defence (MoD)." The campaigner, who describes herself as an expert on the law around tasers, said the fact she deals with "high pro le claims against the state" made her reluctant to cooperate with the SRA, as she said her clients see the independent regulator as "an extension of the state".
>
> The law firm founder says she felt she had been put in a "ludicrous" position, after she "took a stand" in refusing to hand over the documents in a bid to protect her clients' confidentiality. In her view, the court, in demanding she hand over documents, were seeking to send a message that her clients "are not more important than the court." She explains that she initially sought to "challenge the SRA's powers through the court system." However, she soon found she had become "the subject matter in a battle against the state." The lawyer said she quickly began to feel the courts had become "hostile" towards her, as she began to feel persecuted for her refusal to work with the SRA. "I made the decision that I would face prison," Khan told City A.M. "It was a horrible choice that I needed to make."

(5) Ms Khan sought to distance herself from this interview in Khan 3 by stating that she gave the interview before the Miles Order was made, that she was suffering from stress and in an emotional mental state. She also stated that her words had been taken out of context. However, she re-tweeted this article five times between 2 and 4 May 2022 and again on 30 May 2022. Her evidence in Khan 4 was that she re-tweeted the article before she had read it and that the tweet on 30 May 2022 was taken out of context. I reject that evidence entirely. In this last tweet to a Detective Sergeant Ben Stephenson she stated as follows:

> "Ben, if you haven't read my exclusive interview in @CityAM the link is below. Good people have to take a stand against wrongdoers for society for change for the better. You may even learn from this."

(6) I am satisfied that the City AM article and this tweet represented Ms Khan's genuinely held views once the Miles Order had been made and provide clear and unambiguous evidence that she intended to take a stand against the SRA and to defy the Order.

101. Nevertheless, I cannot be satisfied to the criminal standard and beyond reasonable doubt that Ms Khan committed other breaches of paragraph 1 by failing to deliver up individual Listed Items apart from those above. In particular, I cannot be satisfied to the criminal standard that she had Listed Items on her computer or other hard copy client files (and, in particular, the Coulthard and Martin files) in her possession or control at the date of the Miles Order. However, I make it clear that I am unable to make further findings in relation to paragraph 1 because, in my judgment, Ms Khan has not made an honest or reasonable attempt to comply with paragraph 5 (to which I turn).

E. Paragraph 5

(1) Admitted Breaches

102. Ms Khan exhibited the Ledger and Bank Statements to Khan 1 and admitted that she had them in her possession on the date of the Miles Order. Ms Khan also admitted in Khan 4 that she held documents related to Mr Humpston's complaint

to the Ombudsman and that she had asked Janes to disclose them. Finally, in paragraph 93 she admitted that she had failed to comply with paragraph 5 and given late disclosure. I am satisfied beyond reasonable doubt and on the basis of these admissions alone that Ms Khan had Listed Items in her possession and control at the date of the Miles Order and that she committed a breach of paragraph 5 by failing to make and serve a witness statement by 5 May 2022 explaining what steps she had taken to comply with the Order and why she was unable to do so.

103. Mr Ahlquist submitted that this was not a technicality and I agree. For example, the Ledger identified 15 clients of whom the SRA was unaware. If Ms Khan had made a witness statement identifying those clients and giving evidence that she had shredded or deleted their files, the SRA could have contacted those clients to confirm the position and taken steps to recover the documents from any third parties who might also have held them. I am satisfied that the effect of Ms Khan's failure to comply with paragraph 5 promptly frustrated the statutory purpose of Schedule 1, paragraph 9 and prevented Mr Owen from taking the practical steps which he described in his evidence (above).

(2) Electronic Documents and Records

104. I have rejected Ms Khan's evidence that the SophieK Email Address was a personal email account only and I have drawn the inference that it contained hundreds, if not thousands, of emails relating to the practice of the Firm. I have also drawn the inference that Ms Khan had a series of folders on her laptop or on the Firm's server containing documents in native and pdf form and that she also maintained and stored accounts and ledgers in electronic form.

105. If it was right to draw those inferences to the criminal standard, then Ms Khan did not comply with paragraph 5 in relation to these Listed Items until 1 February 2023 and even then, I am not satisfied that she honestly or fully complied with it. She gave evidence in Khan 4 that she had securely disposed of the Firm's computers at the date of the sale to JFP. But she did not explain what Listed Items she had stored on the hard drives of these computers, what steps she

took to retrieve them and whether she retained accounting records or other items in accordance with the SRA Standards and Regulations and, if not, why not.

106. But in any event, Ms Khan admitted in Khan 4 that she held electronic files in relation to the client matters of Mr Forcer and Ms Du Preez but had deleted them. Ms Khan failed, therefore, to explain why she had been unable to deliver up these items until 1 February 2023 and almost nine months after she was required to provide this explanation. It follows that on any view Ms Khan failed to comply with paragraph 5 of the Order in relation to these items.

(3) The Blackwell, Baxter and Shillito Files

107. I have rejected Ms Khan's evidence that she returned these files to the clients and, therefore, the explanation which she gave. If it was right to reject this evidence, then it follows that Ms Khan has not explained the steps which she took to deliver up these Listed Items in accordance with paragraph 5 and why she was unable to do so. It also follows that she remains in breach of paragraph 5 in relation to these files.

(4) Mr Mahoney

108. Although Ms Khan admitted that the Firm had acted for Mr Mahoney, she did not identify any Listed Items in relation to the retainer (e.g. engagement letter, attendance note of the conference, invoice, receipt and documents provided by the client) or what steps she had taken to deliver them up to Mr Owen. Instead, she argued that the Miles Order did not cover the second retainer from JFP. I am satisfied, therefore, that Ms Khan has made no attempt to explain what steps she has taken to comply with the Miles Order in relation to the first retainer from Mr Mahoney and remains in breach of paragraph 5.

(5) The Coulthard and Martin Files

109. I have rejected Ms Khan's evidence in relation to both the Coulthard and Martin files and, therefore, the explanations which she gave and found that it is quite likely that she still retains them. I have also found that the first explanation which she gave in Khan 2 was intended to mislead the Court. It follows that Ms

Khan has not explained the steps which she took to deliver up these Listed Items in accordance with paragraph 5 and why she was unable to do so. It also follows that she remains in breach of paragraph 5 in relation to these files. (Indeed, if I am right and she still retains them she has not explained when she will be able to comply with paragraph 1 and deliver them up.)

(6) The Corbridge and Naylor Files

110. I have also rejected Ms Khan's evidence in relation to the Corbridge and Naylor files and, therefore, the explanation which she gave in relation to these files. If it was right to reject this evidence, then it follows that Ms Khan has not explained the steps which she took to deliver up these Listed Items in accordance with paragraph 5 or why she was unable to do so. It also follows that she remains in breach of paragraph 5 in relation to these files.

(7) Other Clients

111. I cannot be satisfied to the criminal standard that Ms Khan retains in her possession or control the files of Mr Hussain or any of the other clients listed in the Ledger. It is also possible that Ms Khan has complied with paragraph 5 of the Miles Order in relation to the files of these clients (whether held in hard or soft copy) and has now provided an explanation for why she was unable to deliver them up to the SRA, namely, that she destroyed all of them in April to June 2021 apart from the file of Mr Paul McClelland which she returned by hand. Nevertheless, Ms Khan failed to provide this explanation until 1 February 2023 in breach of paragraph 5 of the Miles Order. Moreover, she did not volunteer any of this information in Khan 1 and only provided it when the SRA was able to identify the individual clients.

(8) Overall Findings

112. Ms Khan's evidence in Khan 1 (above) was that since she believed that she had none of the Listed Items there was nothing, or virtually nothing, for her to state in any statement which she was required to make under paragraph 5. It was also her evidence that she did not believe that she was failing to comply with the Miles Order by not filing a "nil return". I have no hesitation in rejecting that

evidence. I am satisfied beyond reasonable doubt that the failure to provide any of the information required by paragraph 5 until (at the earliest) she swore Khan 1 on 30 November 2022 was a serious and deliberate breach of the Order and that Ms Khan's attempt to comply with paragraph 5 was only prompted by the Committal Application.

113. I am also satisfied beyond reasonable doubt that Ms Khan has committed the breaches of paragraph 5 which I have itemised above, that those breaches of the Order were both material and serious and that she remains in breach of the Order in a number of significant respects. Further, the probative force of the evidence as a whole and my individual findings in relation to both paragraphs 1 and 5 satisfies me that no other conclusion is possible but that Ms Khan has failed to comply with paragraph 5 in relation to the mailbox of the SophieK Email Address and the other electronic documents and records of the Firm.

F. Knowledge

(1) Ms Khan

114. I have found that the SRA validly served the Miles Order in accordance with its alternative service provisions, that it came to Ms Khan's attention and that she understood its terms and effect. I have also found to the criminal standard that she has committed breaches of paragraphs 1 and 5. I am also satisfied beyond reasonable doubt that Ms Khan knew that she had not delivered up any Listed Items to Mr Owen or made a statement in compliance with paragraph 5 of the Order until Khan 1. Finally, I have found that Ms Khan has deliberately attempted to mislead the Court in her evidence on the Committal Application. I have no doubt, therefore, that she knew that the service of Khan 1 to Khan 4 did not comply with paragraph 5 either.

115. Nevertheless, Mr Bogle submitted that Ms Khan did not have the necessary mental element to prove contempt because there was a reasonable doubt about Ms Khan's state of mind and whether she fully understood what she was doing. Ms Khan set out in some detail in Khan 1 the difficulties which she encountered at her earlier firm, McMillan Williams, that she was badly affected by stress and

suffered mental and emotional disturbance. I have read that evidence and considered the documents which Ms Khan exhibited carefully.

116. Ms Khan has also adduced an expert psychiatric report from Dr Arvind Gupta dated 6 January 2023. Dr Gupta's evidence (which I accept) is that Ms Khan is presenting with signs and symptoms that are suggestive of Adjustment Disorder, namely, mixed anxiety and depression and that there is also a possibility that she may be suffering from Autism Spectrum Disorder and dysfunctional personality traits. He recommends a further assessment. However, he also expressed the following expert opinion:

> "39. Ms Khan is cognitively alert to understand the court proceedings and can put her views, opinions and wishes in her defence. However, she does not believe that the accusations are morally right. She expressed willingness to accept the outcome, particularly after spending 3 months in prison. She came across as a person, who has over-valued and odd ideas about morality and values
>
> 41. There was no expression or evidence of delusional thinking. Ms Khan, in my opinion, presented with a degree of rigidity in her thought process, with poor and limited coping skills to deal with stressful situations.
>
> 42. Ms Khan was placing over-emphasis of certain issues, that are normally not considered relevant. She also comes across as an intelligent person with limited social skills. These is generally seen to be present in people who suffer from Autism Spectrum Disorder, who are high functioning. Ms Khan also presents with dysfunctional personality traits."

117. In the First Judgment I held that where there was some doubt whether the alleged contemnor had the ability to understand court proceedings or the importance of an injunction, the Court had to be satisfied that they understood what they were required to do or not to do and that if they did not do what they were required to do (or did what they were required not to do), they might well be punished: see [48].

118. Despite Mr Bogle's able submissions, I am not satisfied that Dr Gupta's report provides any evidence to support the conclusion that Ms Khan did not understand either of these things. If anything, Dr Gupta's evidence supports my conclusions that Ms Khan understood the terms and effect of the Miles Order

and appreciated that she had not delivered up any Listed Items or served a witness statement explaining her actions until after the issue of the Committal Application. I fully accept that Ms Khan may believe that she has been victimised and unjustly treated and that it was morally right to take a stand against the SRA (as she stated in the City AM Article). But that is not the same thing. In my judgment, the SRA has proved all of the elements of contempt to the criminal standard.

119. I add that it is not necessary for the SRA to prove that Ms Khan fully appreciated that her failure amounted to a breach of the Order and beyond relying on Dr Gupta's evidence, Mr Bogle did not seek to persuade me that it was. But in any event, I am satisfied that Ms Khan fully appreciated that her failure to deliver up any Listed Items and to make and serve a witness statement by 5 May 2022 amounted to a breach of the Miles Order. Ms Khan's four affidavits betray a thorough understanding of the terms of the Miles Order and what compliance with it required of her. Indeed, she set out the definition of Listed Items in Khan 1 and sought to debate throughout those affidavits whether the conduct which she has been prepared to admit amounts to a breach of the Miles Order.

120. Moreover, in the First Judgment I held that Ms Khan deliberately failed to comply with two orders of the Court knowing that she might be held in contempt of court and I make the same finding on this application. Ms Khan can have been in doubt from the penal notice what consequence would follow if she failed to comply with the Miles Order.

(2) JFP and the Firm

121. To find both the Firm and JFP liable for contempt of court, it is also necessary for the SRA to satisfy me that Ms Khan wilfully failed to ensure that the Firm and JFP took reasonable steps to comply with the Order. Ms Khan is the sole director of the Firm. She is one of two directors of JFP the other being her brother Yusuf. There is no evidence that she was relying on him (or anybody else) to comply with paragraphs 1 and 5 of the Miles Order on behalf of either entity or that he (or anybody else) took any steps to do so. Ms Khan does not make such a suggestion in any of her four affidavits and he has not given

evidence himself. I am satisfied, therefore, that Ms Khan did not believe that some other director, officer or employee of either the Firm or JFP was taking reasonable steps to comply with the Miles Order on their behalf.

122. I have found that Ms Khan committed a number of breaches of paragraphs 1 and 5 to the criminal standard. I have also found that she deliberately failed to comply with the Order in her personal capacity and attempted to mislead the Court into accepting that she had. In the light of those findings, I also find beyond reasonable doubt that she took a conscious decision not to comply with the Miles Order herself or to ensure that the Firm and JFP complied with it knowing that this would place them in breach of the Order or not caring whether it did or not.

G. The Right to Silence

123. In making the findings in this section III of my judgment, I have not found it necessary to rely on any inference drawn from the fact that Ms Khan elected not to give evidence. However, almost all of the issues which I have had to consider on this Committal Application call for explanations by Ms Khan. I take two simple examples. First, I would have benefitted from hearing her cross-examined about her computer records and how she ran her practice. Secondly, I would have benefitted from hearing her explain why she was unable to produce any documents to corroborate her evidence that she returned or destroyed files and why she did not respond to chasing emails from former clients or their new solicitors. Like Miles J in *Hussain* I can only assume that Ms Khan chose not to give evidence because she recognised that she was unable to give evidence which exonerated her and that cross-examination would have further damaged her case. This therefore supports and strengthens the conclusions which I have already reached.

IV. Disposal

124. I find that Ms Khan and the Firm are liable for contempt of court, namely, that in breach of paragraph 1 of the Miles Order they failed by 4 pm on 5 May 2022 to produce or deliver up to Mr Owen the Ledger, the Bank Statements and the

documents from the Humpston files which Janes disclosed to Capsticks on 30 January 2023.

125. I also find that all three Respondents are liable for contempt of court, namely, that in breach of paragraph 1 of the Miles Order they failed by 4 pm on 5 May 2022 to produce or deliver up to Mr Owen both the Beynon files and Humpston Files 051 and 051-2 and that they remain in breach of paragraph 1 of the Order by failing to do so.

126. I also find that Ms Khan is liable for contempt of court, namely, that in breach of paragraph 5 of the Miles Order she failed to serve on Mr Owen a signed witness statement with a statement of truth by 4 pm explaining the steps which she had taken to comply with paragraph 1, why she had been unable to do so and when she would be able to do so and that in breach of paragraph 5 she failed to give any of the required explanations until 30 November 2022.

127. Finally, I also find that Ms Khan is liable for contempt of court, namely, that in breach of paragraph 5 of the Miles Order she has still failed to serve such a witness statement on Mr Owen explaining what steps she has taken to produce or deliver up electronic documents and files created, stored or held by the Firm and also the client files of the following clients (whether hard copy or soft copy): Mrs Blackwell, Mr Baxter, Mr Shillito, Mr Mahoney, Mr and Mrs Coulthard, Mr Martin, Mr Corbridge and Mr Naylor.