Neutral Citation Number: [2025] EWHC 156 (Comm)

Case No: CL-2024-000174

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
COMMERCIAL COURT (KBD)

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

Date: Friday 17 January 2025

Before:

THE HON. MR JUSTICE BRYAN

- -

Between:

(1) TARNJIT SINGH GILL **(2) JAGJIT SINGH GILL**	**Claimants/ Applicants**
- and -	
(1) JAGJIT KAUR **(2) WEST PROPERTIES HOLDINGS LIMITED**	**Defendants/ Respondents**

- -
- -

George Hayman KC and James Kinman
(instructed by **Macfarlanes LLP**) for the **Claimants / Applicants**
The **Defendants/Respondents** did not attend and were unrepresented

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APPROVED JUDGMENT

If this Transcript is to be reported or published, there is a requirement to ensure that no reporting restriction will be breached. This is particularly important in relation to any case involving a sexual offence, where the victim is guaranteed lifetime anonymity (Sexual Offences (Amendment) Act 1992), or where an order has been made in relation to a young person.

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MR JUSTICE BRYAN:

A. INTRODUCTION

1. This is an application to continue a proprietary injunction granted by Butcher J on 16 July 2024 past its current expiry date of 31 January 2025. The injunction was granted (on-notice) against the Respondent, Ms Jagjit Kaur ("Jackie") in respect of shares in an English company named West Properties Holding Limited ("WPHL"). This was pursuant to section 25 of the Civil Jurisdiction and Judgments Act 1982, in support of derivative proceedings in Delaware, USA to recover WPHL for the benefit of a corporate group in which the Claimants have an interest.

2. In summary:

   (1) WPHL was formerly owned by an Isle of Man company named Jetson Properties Limited ("Jetson"), which was itself owned by a Delaware corporation named Regency Holdings LLC ("Regency"). The Claimants are 46.1% owners of Regency and until recently Regency, Jetson and WPHL were controlled by Jackie.

   (2) On 7 February 2024, Jetson was struck off the Isle of Man Register of Companies, the Claimants say at Jackie's instigation. On an unknown date, believed to be also around February 2024, Jackie transferred WPHL to herself. The Claimants say that on its face this appears to have been what they characterised as a straightforward "theft of assets from a structure which the Claimants part own".

   (3) On 20 March 2024, the Claimants issued derivative proceedings in Delaware on behalf of Regency to recover WPHL (the "Delaware complaint"). On 22 May 2024, the Delaware court appointed receivers over Regency tasked with recovering WPHL.

   (4) On 28 March 2024, at a hearing which Jackie attended but which was treated as *ex parte*, Foxton J granted a proprietary injunction pending a return date hearing at which matters could be considered more fully. He therefore treated that hearing as a hearing where there was a duty of full and frank disclosure and not an *inter partes* hearing. The *inter partes* hearing was then heard before Butcher J on 16 July 2024.

3. At the return date hearing, Butcher J held that a continuation of the proprietary injunction, together with associated asset disclosure, was justified. I should say that Jackie did not attend that hearing. The judge was, however, satisfied that it was appropriate to proceed in her absence in circumstances where he was satisfied that she was aware of that hearing and that it was appropriate to proceed in her absence.

4. An issue arose, however, about the appropriate end date, there being no obvious end date for the injunction beyond the date on which WPHL was recovered (which was regarded, rightly, by Butcher J as, on its face, too open ended). The solution reached was, in substance, a reporting mechanism: the proprietary injunction would last six months in the first instance, per the order of Butcher J (to 31 January 2025), requiring the Claimants to return to court and provide it with an update if they wanted the

injunction to be extended beyond those six months. At the time of making his order and as reflected in his order, Butcher J listed this hearing to deal with any application for a continuation of the proprietary injunction past its present expiry date of 31 January 2025. In the event, and as will appear, all that needs to be achieved in order to restore the position in relation to WPHL has not yet taken place.

5. In those circumstances, the Claimants has applied for a continuation of the proprietary injunction for a further six months, to 31 July 2025.

6. Correspondence then followed with Jackie, including, in particular a letter on 18 December, to see whether the injunction could be continued by consent without any need for this hearing. There was no response to that and in further correspondence in early January the Claimants made clear that the hearing would take place on this date in correspondence which was both couriered and emailed to Jackie.

B. JACKIE'S NON-ATTENDANCE

7. The first matter that appears for consideration before me today is whether or not, the hearing should proceed in circumstances where Jackie has not attended today. This hearing is on a fully remote basis and that was deliberate so as to allow Jackie to attend if she so wished remotely by the Teams link. Jackie has not attended today by the Teams link.

8. Accordingly, at the outset of this hearing, I required Mr Hayman KC, who appears on behalf of the Claimants, to satisfy me that the hearing should go ahead in the absence of Jackie. In that regard, I was taken to the terms of the Butcher Order which made clear within it that today was the return date for that hearing and to the witness evidence to the effect that the order had been served, both by email and by courier upon Jackie and she was undoubtedly aware therefore of this order and the hearing today. The Butcher Order also included a disclosure order against Jackie which has not been complied with. That has led the Claimants, as shall be seen, to issue committal proceedings in relation to that breach of the Butcher Order.

9. In relation to the hearing itself, my clerk emailed Jackie to all the various email addresses that were provided by Macfarlanes Solicitors for the Claimants in relation to the joining instructions for today. Whilst some of those emails either had an autoreply to them or it is possible that one or more may have bounced back, I am satisfied that Jackie will have received the joining instructions for today by such communications, and was in a position to do so if she so chose. Of course, even if there had been any difficulty in relation to her joining today, she was well aware of this hearing for the reasons that I have identified and if there had been any difficulty in either attending the hearing or attending remotely then I would have expected her to contact Commercial Court Listing and Macfarlanes in that regard. The same would be true if she was seeking an adjournment of today's hearing. She did no such thing.

10. In the event, at the start of the hearing I was also made aware that there had been mediation matters in the United States yesterday and the day before which she attended. It appears, therefore, that she was, at least up until yesterday, in the United States of America and would have been able to attend remotely had she chosen to do so. I was satisfied that she was fully aware of today's hearing and had the ability to attend if she wished to do so. I have reached the conclusion that she had chosen not

to attend. If there had been any difficulty in her attendance, again, I would have expected her to contact either Commercial Court Listing or Macfarlanes, neither of which happened. I accordingly proceeded in her absence.

11. I should say at the outset that in addition to Jackie being a defendant to this application, WPHL has also been made a party to this application because it is directly affected by the relief sought but the Claimants are not, at this time, seeking any orders requiring it to do anything or prohibit it from doing anything either.

12. In terms of the evidence that is before me, the Claimants have filed the following:

    (1) the First, Second, Third, Fourth, Fifth and Sixth Affidavits of Mr James Popplewell, a partner at Macfarlanes LLP, who has overall conduct of this application on behalf of the Claimants, and

    (2) expert reports of Mr Gottesman as to the law of the State of Delaware and Mr Savage as to the law of the Isle of Man. Reliance was placed on that evidence at the time that permission to rely upon it was granted by Foxton J, as reflected in the order of Foxton J and has been a feature of the evidence, both before Foxton J, Butcher J and myself. At no stage has Jackie filed any evidence in relation to the Claimants' applications or in rebuttal of the evidence served on behalf of the Claimants.

C. FACTUAL BACKGROUND

13. The First Claimant ("Mitch") and the Second Claimant ("Jag") are brothers. Jackie is their sister. The three of them are children of Mr Jagmail Singh Gill ("Jack") and his wife Amarjit Kaur ("Amarjit"). Jack was a highly successful businessman who owned a number of properties, including hotels in London and the David Wayne Hooks Memorial Airport, a private airport in Texas. Sadly, Jack died prematurely in April 2020, after contracting COVID-19. Amarjit is the sole beneficiary under his various wills and inherited significant assets from him. During his life, Jack had made significant lifetime gifts to his children, particularly Mitch and Jag.

14. There is before me a structure chart which shows the ownership of the family business before what is said to be the misappropriation of WPHL. In summary:

    (1) A substantial portion of the family's assets were held by Regency. Mitch and Jag own between them 46.1% of Regency. The remaining 53.9% was, at least at the point of Jack's death, owned by Amarjit as sole beneficiary of Jack's estate;

    (2) Regency owned 100% of (a) Jetson, an Isle of Man Company; (b) Transomas Investments Limited ("TIL"), an English company;

    (3) Jetson owned 100% of WPHL, which owned (a) 100% of Transomas Limited ("TL"), an English company; (b) 49% of Gill Aviation Inc. ("Gill Aviation"), a Texas company; and (c) a 48.51% share as limited partner in Northwest Airport Management LP, a Texas Limited Partnership ("NWAM"), which owns the Texas Airport, as well as other business interests in Texas. According to the best information which the Claimants presently have, WPHL is worth approximately £22.7

million, as addressed in Mr Popplewell's First Affidavit at paragraph 22;

(4) The other partners in NWAM are: (a) Gill Aviation, as general partner, holding a 1% share; and (b) certain trusts connected with Mitch and Jag which between them hold a 50.49% share in NWAM as limited partners.

15. After Jack's death in April 2020, Jackie took control of the structure, and the evidence before me is that she has refused to provide Mitch and Jag with information as to how any of Regency, Jetson, WPHL, TL, TIL, Gill Aviation or NWAM were being managed.

16. On 7 February 2024, Jetson was struck off the Isle of Man's Register of Companies because it did not file an annual return. Jackie has filed Jetson's annual return in the past and the Claimants invite the court to draw the inference that she deliberately omitted to do so on this occasion.

17. This was followed, in any event, on 12 February 2024, by a filing at Companies House in England showing that all the shares in WPHL had purportedly been transferred to Jackie nearly a year earlier on 11 March 2023. The Claimants believe this date to be untrue (and they say known by Jackie to be untrue), in the sense that the transfer had been backdated. This is because the proposition that Jackie was sole owner of WPHL during the period from 11 March 2023 to 12 February 2024 is contradicted by documents which emanated from, or were approved by, Jackie during this period. Those documents are before me, but it is not necessary for me to set them out in this judgment.

18. Macfarlanes wrote to Jackie on 23 February 2024, asking for an explanation in relation to such matters but no answer was received. The Claimants note, in fairness to Jackie, that emails sent to Jackie at around that time prompted autoreplies asserting that she was on medical leave, and it is possible, therefore, that Jackie may say that she did not reply because she was unwell. The evidence before me is that at a later point in time she was admitted to hospital, apparently for heart issues. However, Jackie herself has provided no evidence on this point or, indeed, as I have already identified, any other matter.

19. The position would appear to be that she remains active in litigation when she chooses to do so and has, on occasions, attended court hearings, for example, that before Foxton J on 28 March 2024 and she also arranged for a statutory demand to be served on KTL. She has also corresponded with the Court of Appeal. It is the Claimants' case that she has set up an autoreply as a reason not to respond to communications which she wishes to ignore.

20. The Claimants' case is that, in short, there has been a straightforward misappropriation by Jackie of Jetson's and, indirectly, Regency's assets (i.e., the shares in WPHL) and there has been an attempt at a cover-up by backdating Companies House forms.

C.1 The Delaware Complaint

21. Turning to events in Delaware, the Claimants' position is that the misappropriation of WPHL constitutes a breach of duties which Jackie owed to Regency as its manager. As members in Regency, the Claimants are entitled to bring in the

Delaware court derivative proceedings on Regency's behalf in respect of those breaches of fiduciary duty in the circumstances that have transpired and based on the evidence that is before me from Mr Gottesman. In those circumstances, the Claimants commenced derivative proceedings on behalf of Regency on 20 March 2024 in the Court of Chancery in the State of Delaware.

22. The Delaware complaint in summary alleges:

(1) Jackie was and had been at all material times the manager of Regency;

(2) In that capacity, she owed fiduciary duties to Regency and these duties require a fiduciary to "act with undivided and unselfish loyalty to the LLC … to further the company's best interest" and also bar her from enriching herself at Regency's expense;

(3) The complaint alleges that by allowing Jetson to be struck off and by taking WPHL for herself (both of which were wholly owned by Regency) she breached her fiduciary duties to Regency.

23. In terms of the relief sought in the Delaware complaint, the Claimants sought orders requiring Jackie to take steps to restore Jetson to the registry in the Isle of Man and to return WPHL to Jetson. In the alternative, they sought damages.

24. The evidence before me is that Jackie did not respond to the Delaware complaint, either substantively, or to request an extension of time to do so, and the Claimants therefore made an application for default judgment. That application was granted and the Delaware court appointed receivers over Regency on 22 May 2024 and they were tasked with restoring Jetson and recovering WPHL. That process, as already foreshadowed, is presently ongoing.

25. The Claimants say that at least one of the reasons why that process is ongoing is because Jackie has adopted an obstructive approach. On the evidence before me that would appear to be the position. The Delaware court remains seized of the proceedings and is receiving monthly reports from the receivers. The evidence before me is that the Delaware court can grant further or other relief, should that prove necessary.

26. The Claimants have also applied for, and obtained, a Temporary Restraining Order ("TRO") in Delaware that prohibits Jackie from dealing with any property or assets of Regency. There is, I am satisfied, no overlap between the TRO and the order sought on this application.

C.2 The Hearings before Foxton J and Butcher J

27. Turning then to the previous hearings before this Court in more detail, on 22 March 2024 the Claimants filed notice of an application for a proprietary injunction and general asset freezing relief pending a return date. Notice of that application was served on Jackie on the same day. That application was heard by Foxton J on 28 March 2024, being three clear days after service at a hearing which Jackie did attend. A transcript of that hearing of the ruling of Foxton J is before me. As already foreshadowed, at that hearing Foxton J treated the application as *ex parte* because Jackie had not had time to prepare for it and he did not want her to be prejudiced by anything she said or did or not say at that hearing.

28. He granted the proprietary injunction relief sought on an interim basis until a return date hearing. The original return date listing was subsequently amended to 16 July 2024. He left consideration of the disclosure orders and the general freezing relief sought until the return date on the basis they were not necessary to "hold the ring" or were not sufficiently urgent for him to make an order before Jackie had had an opportunity to take advice, which I note he urged her to do on more than one occasion during the course of the hearing.

29. Following the filing and service of the continuation application, the Claimants decided not to pursue general asset freezing relief for the time being but they have reserved their position to do so should that prove necessary hereafter. However, they did maintain their application for the continuation of the proprietary injunctive relief in respect of the shares in WPHL and its assets and sought associated disclosure. As already noted, that application was heard by Butcher J on 16 July 2024 at a hearing that Jackie neither attended nor filed any evidence or submissions in relation thereto. Butcher J granted that application and there is before me both a transcript of that hearing and the judgment that was delivered.

C.3 Developments following the hearing before Butcher J

30. Turning to developments following that hearing, the order of Butcher J was served on Jackie by courier on 17 July 2024 and by personal service on 23 July 2024. That is one of the reasons why I was satisfied that Jackie was aware of today's hearing in circumstances where the date of this hearing is expressly stated in the order of Butcher J. The evidence before me is that since that date Jackie has failed to comply with her obligations to provide the disclosure that was ordered at paragraph 4 of the order of Butcher J. That has prompted the Claimants to commence committal proceedings against her.

31. Turning to developments so far as the Delaware court is concerned and the receivers, since July the receivers appointed by the Delaware court have been working to engage agents in the Isle of Man (specifically an agent Equiom) to restore Jetson. Again, the Claimants say that this process has been hindered by a refusal on the part of Jackie to cooperate, which has led to complications in the process of meeting the due diligence requirements of Equiom.

32. However, progress has been made and Equiom accepted instructions on 4 December 2024 and applied for the restoration of Jetson on 27 December 2024. That application was granted as recently as 7 January 2025, with Mitch being appointed a director of Jetson on the same date. As addressed in the evidence before me, the next envisaged step will be for Jetson to issue its own proceedings in England for the recovery of WPHL which it intends to do shortly. In this regard, Mr Hayman KC told me during the course of the hearing that counsel has been instructed already to draft those proceedings.

33. I should say that there are a number of other proceedings between the parties which were addressed in the evidence before me and which I have borne in mind when considering the relief that is sought today. I do not, however, consider that it is necessary to go into the detail of those other proceedings in this judgment.

D. THE APPLICATION

34. The Claimants seek the continuation of proprietary injunctive relief under section 25 of the 1982 Act which provides:

> (1) "The High Court in England and Wales or Northern Ireland shall have the power to grant interim relief where –
>
> a) proceedings have been or are to be commenced in a 2005 Hague Convention State other than the United Kingdon, or in a part of the United Kingdom other than that in which the High Court in question exercises jurisdiction; and
>
> b) they are or will be proceedings whose subject-matter is within the scope of the 2005 Hague Convention as determined by Articles 1 and 2 of the 2005 Hague Convention (whether or not the 2005 Hague Convention has effect in relation to the proceedings).
>
> (2) On an application for any interim relief under subsection (1) the court may refuse to grant that relief if, in the opinion of the court, the fact that the court has no jurisdiction apart from this section in relation to the subject-matter of the proceedings in question makes it inexpedient for the court to grant it.
>
> (3) Her Majesty may by Order in Council extend the power to grant interim relief conferred by subsection (1) …"

35. By Article 2 of the Civil Jurisdiction and Judgments Act 1982 (Interim Relief) Order 1997/302, the power to grant interim relief conferred by section 25(1) of the 1982 Act was extended to proceedings commenced otherwise in a 2005 Hague Convention State and proceedings whose subject matter was not within the scope of the 2005 Hague Convention as determined by Articles 1 and 2 of the 2005 Hague Convention.

36. At the outset, I note that the Claimants reserve the right to submit that the consequence of the decisions in *G (Court of Protection: Injunctions)* [2022] EWCA Civ 1312; [2023] Fam 107 and *Broad Idea International Ltd v Convoy Collateral Ltd* [2021] UKPC 24, [2023] AC 389 is that it is not strictly necessary to rely upon section 25 of the 1982 Act in order to obtain the injunctive relief sought in support of foreign proceedings in circumstances where, as here, the Respondent, Jackie, was served as of right within the jurisdiction. However, like on the applications before Foxton J and Butcher J before me, the Claimants have proceeded on the basis that they will address the court in relation to section 25 and seek to satisfy the Court that it is appropriate, and not inexpedient, to grant the relief sought by reference to section 25.

37. As is well known and well established, the court adopts a two-stage approach to applications under section 25 of the 1982 Act, as summarised by Gloster J (as she then was) in *Royal Bank of Scotland v FAL Oil Co Limited* [2012] EWHC 3628 Comm at [36]:

(1) "First, it will consider whether the facts would warrant the relief sought if the substantive proceedings had been brought in England.

(2) Secondly, it will consider whether, in the language of section 25(2) of the 1982 Act, the fact that the Court had no jurisdiction apart from the section to grant the relief sought makes it "inexpedient" to grant the relief."

D.1 The first stage: would the facts warrant the relief sought if the substantive proceedings had been brought in England?

38. So far as the applicable principles, CPR rule 25.1 provides the court may "grant the following interim remedies … (c) an order – (i) for the detention, custody or preservation of relevant property. CPR r.25.1(2) provides that "relevant property" means property "which is the subject of a claim or as to which any question may arise on a claim".

39. The requirements for a proprietary injunction pursuant to CPR r. 25.1 are that the Claimants can show that (a) they have a serious issue to be tried; (b) damages would not be an adequate remedy for the Claimants; and (c) the balance of convenience or balance of justice favours the grant of an injunction – see *Sukhoruchkin v Van Bekestein* [2014] EWCA Civ 399 at [18].

40. In order to obtain a proprietary injunction, it is not necessary for the applicant to have a direct proprietary claim to the assets themselves. In this regard, see:

(1) *Koza Ltd v Koza Altin Isletmeleri AS* [2021] 1 WLR 170, in which the applicant was a parent company and obtained an interim injunction restraining the use of its subsidiary's assets, because dissipation of the same would affect the value of its shareholding in the subsidiary (see at [82] to [83] and [93] to [94]).

(2) *Re Ravenhart Service (Holdings)* [2004] 2 BCLC 376, in which an interim injunction was made on the application of a petitioner in unfair prejudice proceedings, protecting the assets of the company from dissipation (see [102]).

41. Equally, it is not necessary for the applicant to have any direct cause of action against the Respondent. In *HMRC v Egleton* [2007] Bus LR 44 (a case relied upon by the Court of Appeal in *Koza*), a creditor petitioning for the winding up of a company was granted an interim injunction freezing the assets of a director on the basis that, when the company was wound up, the liquidator would have substantial claims against the director which the creditor had a legitimate interest in protecting – (see [10] to [21]).

42. Turning to the application of the principles to the facts of this case, I note that Butcher J and Foxton J concluded that the Claimants were entitled to a proprietary injunction. As I address below, I, too, consider that the proprietary injunction should be continued. In this regard, I have considered the matter afresh and I am satisfied that it is appropriate to grant the injunctive relief sought. I address the elements in turn below.

43. S**erious issue to be tried**: The evidence that is before me from Mr Gottesman is clear, namely that if Jackie has misappropriated WPHL this would constitute a breach of fiduciary duty which would entitle the Claimants to obtain an order requiring the transfer of WPHL back to Jetson. This is corroborated by the fact that the Delaware court has, indeed, made such an order, albeit in circumstances where that was upon Jackie's default.

44. I am satisfied that the evidence strongly suggests that there has been a misappropriation. In particular, I consider that the following facts, when taken together, would appear to exclude any obvious innocent explanation:

    (1) Jackie appears to have been responsible for filing Jetson's previous annual return, and it appears to be her failure to do so which led to Jetson being struck off on 7 February 2024.

    (2) Very shortly after Jetson was struck off, on 12 February 2024, documents were filed at Companies House which stated that WPHL was transferred to Jackie on 11 March 2023, a statement which is inconsistent with documents prepared by, or on behalf of, Jackie between 11 March 2023 and 12 February 2024, such documentation being before me.

    (3) There is, I am satisfied, a striking coincidence in timing between these events and the proceedings against Jackie in England and Delaware respectively.

    (4) The absence of any explanation from Jackie, in evidence or otherwise, when challenged about the events.

45. Like Foxton J and Butcher J before me, I am satisfied that these matters give rise to a serious issue to be tried, although the Claimants do not need to put their case this high as that in the absence of any material change in circumstances as Jackie is barred from arguing that a different conclusion should be reached (see *Cotter* at [30] to [42]).

46. **Adequacy of damages/balance of convenience:** If, as appears to be the case, Jackie, has misappropriated WPHL under cover of false filings at Companies House, there is every risk that Jackie will, if left to her own devices, either deal with WPHL to put it beyond recovery or distribute assets out of it to destroy its value. Indeed, the Claimants say that this is the very obvious motivation that is behind the misappropriation of WPHL's shares in the first case. In either case, I am satisfied that damages would not be an adequate remedy for the Claimants. On the evidence before me, WPHL is, as I have already identified, worth approximately £22.7 million and owns what is effectively unique assets in the form of interests in the Texas Airport and other property. The Claimants cannot be confident that they would be able to obtain such a large sum on enforcement of a judgment against Jackie and they also say, with some force, that any attempt to do so would be likely to be extremely arduous. I am also satisfied that there is no reason to believe that they would necessarily be able to recover their property interests held by WPHL.

47. In contrast, it is difficult to contemplate what substantial prejudice Jackie might suffer if the relief that is sought is granted beyond, of course, the usual inconvenience of being prevented from dealing with an asset which she claims is hers.

48. The Claimants previously gave, and continue to offer, the usual cross-undertaking in damages and those undertakings are, I am satisfied on the evidence, backed by very substantial assets. In such circumstances, it is difficult to conceive of a circumstance in which those cross-undertakings would not be sufficient to compensate Jackie for any damage which she is found to have suffered.

49. Accordingly, like Foxton J and Butcher J before me, I am satisfied that it is just and convenient, subject to questions of expediency, to grant the relief sought.

D.2 The second stage: is it "inexpedient" to grant the relief sought?

50. The applicable principles are well-established. In this regard, the relevant considerations were identified by Potter LJ in *Motorola Credit Corp v Uzan (No. 2)* [2004] 1 W.L.R.113 at [115]:

> (1) First, whether the making of the order will interfere with the management of the case in the primary court e.g., where the order is inconsistent with an order in the primary court or overlaps with it.
>
> (2) Second, whether it is the policy in the primary jurisdiction not itself to make the relevant form of relief sought.
>
> (3) Third, whether there is a danger that the orders made will give rise to disharmony or confusion and/or risk of conflicting, inconsistent or overlapping orders in other jurisdictions, in particular the courts of the state where the person enjoined resides or where the assets affected are located.
>
> (4) Fourth, whether at the time the order is sought there is likely to be a potential conflict as to jurisdiction rendering it inappropriate and inexpedient to make the order sought.
>
> (5) Fifth, whether, in a case where jurisdiction is resisted and disobedience to be expected, the court will be making an order which it cannot enforce.

51. Turning to the application of those principles to the facts of this case, I am satisfied that the relief sought by the application that is made by the Claimants is expedient in the above sense.

52. First, making the order sought would not interfere with the management of the cases in Delaware. The evidence before me from Mr Gottesman is that the Delaware court would not object to the Claimants making this application and Butcher J found the fact that default judgment had been entered in Delaware did not make the continuation of the proprietary injunction inappropriate or undesirable. I agree.

53. Secondly, there is no policy in Delaware of not making the sort of relief sought here. As explained in the evidence before me, the Delaware courts can and do grant TROs to prevent people from dealing with their assets.

54. Thirdly, I am satisfied that there is no material danger of disharmony or confusion or any material risk of conflicting, inconsistent or overlapping orders in other jurisdictions. As to this (a) the TRO obtained in Delaware does not overlap with the order sought and (b) there have been injunctions made in Texas on 23 August 2023 and 11 July 2024 (the first restrained certain companies then controlled by Jackie from altering the ownership of Regency or NWAM, the second required Jackie to surrender her assets in Texas). However, neither of these injunctions overlap with the proprietary injunction, and that has been confirmed in letters from Texas lawyers that are before me.

55. Fourthly, there is no obvious conflict of jurisdiction. Jackie is resident in England and I am satisfied that the court has jurisdiction to make the order sought.

56. Fifthly, there is no reason to consider that the Court will not be able to enforce its orders. In circumstances where Jackie is resident in the jurisdiction, committal proceedings would be an effective sanction should that prove necessary.

E. CONCLUSIONS

57. In such circumstances, I am satisfied that it is expedient to grant the relief sought. There has been no material change in circumstances since the order was granted by Butcher J, save in respects which further bring home the need for continued injunctive relief in circumstances where Jackie has not cooperated in steps being taken by the receivers, and has failed to comply with orders of this Court. I am satisfied that if this injunction is not continued, then the risks that the Claimants identify could well come to fruition.

58. In such circumstances, and for the above reasons, I accordingly grant the relief that is sought and extend the proprietary injunction until 31 July 2025. I will set a further hearing for a period shortly before that date to consider any application to maintain the order thereafter should that prove necessary.

59. I will hear from counsel to finalise the precise terms of the order and the appropriate date for such further hearing.

F. COSTS

60. The only remaining matter before me is the question of costs. This is a situation in which there are substantive proceedings in Delaware. Those proceedings have not been successfully opposed in Delaware by Jackie and the receivers have been appointed and they are taking steps and have achieved the re-appointment of Jetson and there are likely to be ongoing proceedings in England.

61. However, this is a case in which the Court is in a position, in relation to the injunctive relief, to take a view now as to the overall merits and what is contemplated is that within the timescale of this further proprietary injunction, the Delaware receivers will achieve the matters which this proprietary injunction is designed to protect, and in consequence there may be no need for any further hearing.

62. In such circumstances, I consider it is appropriate to address costs at this stage. I note in passing that a similar approach was adopted by Butcher J before me. Then, as now, the Claimants were the successful party. In relation to much larger figures

detailed assessment was ordered, with a substantial payment on account being ordered (that has not been paid).

63. I am satisfied that it is appropriate that the Claimants should have their costs of and occasioned by this application and that this should be on the standard basis. I am also satisfied, in the context of a hearing that has lasted less than a day, and involving the sums claimed, that it is appropriate to summarily assess those costs.

64. I have before me a statement of costs of the applicants for the hearing on 17 January 2025 in the usual way, which is signed by Mr Popplewell, a partner in Macfarlanes, on behalf of the Claimants.

65. On such summary assessment, on what is a broad brush exercise, and having considered the matters set out in the statement of costs, I summarily assess the Claimants' costs at the figure of £71,850.

(This Judgment has been approved by Mr Justice Bryan.)