



Neutral Citation Number: [2022] EWHC 572 (Ch)

Case No: BL-2021-000365

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

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

Date: 16 March 2022

Before :

MR DAVID HALPERN QC SITTING AS A DEPUTY HIGH COURT JUDGE

Between :

NEBAHAT EVYAP İŞBİLEN

- and -

- (1) SELMAN TURK**
(2) SG FINANCIAL GROUP LIMITED
(3) BARTON GROUP HOLDINGS LIMITED
**(4) SENTINEL GLOBAL ASSET
MANAGEMENT INC**
**(5) SENTINEL GLOBAL PARTNERS
LIMITED**
(6) AET GLOBAL DMCC
(7) FORTEN HOLDINGS LIMITED
(8) FORTEN LIMITED (dissolved)
(9) HEYMAN AI LIMITED (in liquidation)
(10) GARY BERNARD LEWIS

Claimant

Defendants

**Mr Dan McCourt Fritz and Mr Tim Benham-Mirando (instructed by Peters & Peters
Solicitors LLP for the Claimant**

Hearing dates: 7, 15 and 16 March 2022

Approved Judgment

This judgment was handed down by the Judge remotely by circulation to the Claimant's representatives by email. The date and time for hand-down is deemed to be 10:30am on 16 March 2022.

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

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MR DAVID HALPERN QC SITTING AS A DEPUTY HIGH COURT JUDGE

Mr David Halpern QC :

1. An application without notice has been made on behalf of the Claimant, Mrs İşbilen, seeking a search order and an imaging order against the First Defendant, Mr Turk. The application is made by Mr McCourt Fritz and Mr Benham-Mirando, who are instructed by Peters & Peters Solicitors LLP¹.
2. I have heard the application in private pursuant to CPR 39.2(3)(a), as publicity would defeat its object. I am satisfied that it is necessary to sit in private to secure the proper administration of justice. Once the hearing on the return date has occurred, this judgment will be published in the usual way.
3. The hearing on 7 March 2022 was listed for half a day (to include giving judgment and agreeing the order), plus half a day for pre-reading. Although I was told that there would be no need for me to read large parts of the application bundle, which runs to 4,300 pages, it was immediately obvious that I would need to do considerably more than half a day's pre-reading in order to satisfy myself that there was a proper basis for the application and that Mrs İşbilen and her solicitors and counsel had complied with their duty of full and frank disclosure.
4. As requested, I pre-read Mrs İşbilen's 40-page first affidavit and Mr Tickner's 58-page fourth affidavit, but I was not asked to read the exhibit to Mr Tickner's affidavit running to 1,459 pages nor the pleadings (and, in any event, I would not have had time to look at that further material even briefly). Mr McCourt Fritz rightly observed that the judge on a "without notice" application for a search order is inevitably going to have to rely heavily on counsel and solicitors discharging their duty of full and frank disclosure. This remains the case, even after more extensive pre-reading, but in the original time allowed I would have had time to do little more than rubber-stamp the application. I indicated to counsel that I would proceed with the application on 7 March if requested, but that I would have to dismiss it if it was not fully disposed of within the allotted time. Counsel elected instead to adjourn the

¹ I circulated a draft of this judgment to counsel, who have corrections typing mistakes and obvious errors in the usual way. There have been no material changes.

application to a further hearing with a more realistic estimate of one day and with time for additional pre-reading.

5. Now that I have had time to pre-read more fully, I have been impressed by the evident care taken in the preparation of the affidavit evidence and the skeleton argument, as well as the excellent oral submissions made by counsel. These have given me the confidence that Mrs İşbilen and her advisers appear to have discharged their duty of full and frank disclosure.

The facts

6. The evidence on which Mrs İşbilen relies consists primarily of her first affidavit, sworn at the outset of these proceedings on 2 March 2021, and the fourth affidavit of her solicitor, Mr Jonathan Tickner, sworn on 4 March 2022, which brings matters up to date. According to the English translation of Mrs İşbilen's first affidavit (the original is signed in Turkish), she was born in 1945 and formerly lived in Turkey, where her husband remains incarcerated as a political prisoner. She has very substantial wealth of some \$90 million which emanated from her shareholding in a family business. In 2016 she resolved to leave Turkey and to move her assets outside Turkey. She enlisted the help of Mr Turk, who she claims has dishonestly misappropriated some \$50 million in breach of fiduciary duty and by means of undue influence.
7. Her affidavit was a key part of the evidence in support of her application to Miles J at the start of these proceedings. The facts set out in that affidavit are summarised in his judgment of 4 March 2021. For the purposes of the current application, it is sufficient to refer to that judgment without the need to repeat his summary.
8. Miles J concluded at [33] that Mrs İşbilen had "*at least a good arguable case on the merits*". Part of her original application related to a sum of nearly €28 million which she claims was purportedly invested by Mr Turk in Sentinel Global Fund, a Cayman Islands Fund. Miles J held at [90] that there was "*at least a strong arguable case*" that this investment was procured by fraud or undue influence.

9. Miles J granted a worldwide freezing order (“**WFO**”) against Mr Turk in the sum of £40 million, together with a proprietary injunction, a disclosure order, including disclosure to support Mrs İşbilen’s tracing and proprietary claims, and an order for delivery up of Mr Turk’s passport. (There were also orders against other Defendants, but I do not refer to these, because the current application is made solely against Mr Turk.)
10. Miles J’s order was made before issue of the Claim Form, and without knowing what, if anything Mr Turk would say in response. He emphasised that he was making no findings of fact which would subsequently be binding in these proceedings. I have to reach my own decision as to whether the facts relied on in Mrs İşbilen’s affidavit, together with subsequent evidence which I set out below, meet the threshold which is required for a search order. I bear in mind that this threshold is higher than is required for a WFO and hence it is not sufficient for me merely to adopt the conclusion reached by Miles J without satisfying myself that the higher threshold has been reached.
11. The Claim Form was issued on 8 March 2021. It claimed that Mrs İşbilen entrusted Mr Turk with control of at least \$87.5 million and that he dishonestly and systematically breached his fiduciary obligations to her. There was a proprietary claim that Mrs İşbilen was entitled to sums exceeding \$5 million which Mr Turk received pursuant to a purported loan, and there was a claim for damages for deceit and for an account on the footing of wilful default. (As mentioned above, I do not need to refer to the claims made against other defendants.)
12. I have read Mr Turk’s first witness statement dated 24 March 2021, which he said was made in order to explain the background to the dispute, bearing in mind that the court had previously heard only Mrs İşbilen’s account. I have also read his Defence to the original Particulars of Claim. Whilst these documents dispute the allegations made by Mrs İşbilen, they provide no corroborative evidence in support of his case which affects my conclusion on the strength of her case (as set out in the Discussion below).
13. On the return date for the WFO on 18 March 2021, Mr Turk was represented by counsel before Ms Pat Treacy sitting as a deputy judge. He disputed Mrs

İşbilen's version of events but made no application, either at that hearing or subsequently, to discharge the WFO (including the passport order). He admitted that he had not fully complied with the disclosure order and the hearing was adjourned to 25 March 2021 to enable him to make a further affidavit giving the required disclosure. However, at the adjourned hearing he instead consented to cross-examination. The order made on 25 March 2021 provides for limited cross-examination, subject to safeguards, including a proviso that the evidence is not to be admissible in these or any other proceedings without the court's permission. The cross-examination took place before Ms Treacy on 20 April 2021.

14. On 3 June 2021 Mrs İşbilen issued an application to amend the Claim Form and Particulars of Claim to include additional defendants and to add further claims in reliance on answers given by Mr Turk in cross-examination. The draft Amended Particulars of Claim (“**APOC**”) include a claim to set aside the various transactions on the ground of undue influence. I have been taken to paragraphs 136G to 136J of the APOC which set out a strong prima facie case of undue influence by a trusted adviser over a woman who was vulnerable because of her age, her inability to speak English and her status as a refugee from abroad, and who trusted him as if he were a family member.
15. On 2 July 2021 Mr Turk applied for reverse summary judgment against Mrs İşbilen. Mr McCourt Fritz submitted that this application made it impractical for Mrs İşbilen to apply for a search order until it had been dismissed.
16. On 21 July 2021 Mrs İşbilen issued an application for yet further disclosure resulting from the inadequacy of further disclosure apparently given by three letters from Bivonas, who at that time were instructed as Mr Turk's solicitors (I was not taken to these letters).
17. The applications referred to in paragraphs 14 to 16 above, together with other applications, came before Mr Stuart Isaacs QC, sitting as a deputy judge. In his judgment, dated 20 December 2021, he decided as follows, so far as relevant to the current application:
 - i) He dismissed Mr Turk's application for reverse summary judgment and recorded in his order that it was totally without merit.

- ii) He gave Mrs İşbilen permission to amend her Claim Form and Particulars of Claim and to rely on evidence given by Mr Turk in cross-examination on 21 April 2021. He held that the purpose of the cross-examination had been to enable Mrs İşbilen to develop her case and that it was only necessary because Mr Turk had failed to comply with his disclosure obligations under Miles J's order.
 - iii) He granted Mrs İşbilen's application for further disclosure by Mr Turk and did so for each of the six reasons advanced on behalf of Mrs İşbilen, which included persistent breach of his disclosure obligations.
18. Meanwhile, on 7 December 2021 Meade J had made a *Norwich Pharmacal* order for disclosure of bank records. This order was not to be disclosed to Mr Turk or to the court dealing with the other applications (i.e. Mr Isaacs QC).
19. Mr McCourt Fritz described the inadequacy of earlier disclosure, which was revealed by Mr Isaacs QC's order, as the tipping-point which led to the making of the current application. Counsel fairly acknowledged that Mrs İşbilen's solicitors have not yet given Mr Turk an opportunity to respond to this criticism. I am satisfied that the concern not to tip Mr Turk off about the current application is a good reason for not having complained to him about the inadequacy of his latest disclosure.
20. The up-to-date position is set out in Mr Tickner's fourth affidavit:
- i) He gives details of the mandates which were sent to banks following Mr Isaacs QC's order; he says that a number of these remain outstanding and that those which have resulted in disclosure have given rise to concerns that there are further undisclosed accounts and transactions.
 - ii) He states that the result of the *Norwich Pharmacal* order and disclosure obtained is that evidence given by Mr Turk in cross-examination and by way of disclosure has been shown to be misleading. A particular example relates to Alphabet Capital Ltd, which received more than £1m of Mrs İşbilen's funds. Mr Turk produced invoices purporting to show transfers for professional fees. However, the *Norwich Pharmacal* relief (to which I refer in paragraph 18 above) shows that

the money was used for purposes unconnected with Mrs İşbilen, e.g. substantial sums were paid to Prince Andrew, Duke of York, and to Sarah, Duchess of York.

21. This is a very brief summary of a long and detailed affidavit. I have concluded that it is not necessary for me to provide a fuller summary for the purpose of this judgment. Anyone reading this judgment who wishes to know what evidence I relied on in reaching my conclusion should read that affidavit. In particular, I draw attention to paragraphs 177 and 178 which contain evidence given pursuant to the obligation of full and frank disclosure.
22. Suffice it to say that it is a detailed and impressive document which provides cogent evidence of serious breaches of the disclosure obligations following from the orders of Miles J and Mr Isaacs QC, as well as identifying further breaches which arises out of the material already disclosed. I am satisfied that there is a strong case that Mr Turk remains in breach of his disclosure obligations; it is not necessary for me to any concluded view that he is in breach, and I do not do so.
23. In his oral submissions Mr McCourt Fritz said that the total sums which his client claims were misappropriated amount to some \$50 million. Mr Turk has provided explanations for approximately two thirds of these sums, most of which have been allegedly spent on professional or other fees or lost in bad investments. No explanation at all has been given for the remaining one third.
24. Before leaving the facts, I must also mention that Mr Tickner swore a fifth affidavit on 7 March 2022, in which he refers to some documents disclosed by Hampden Bank (one of the banks into which funds were transferred by Mr Turk). Mr Tickner says that he had previously overlooked these documents. The most significant is an internal note, made by Mr Stephen Buckland of Hampden Bank, of a meeting with Mrs İşbilen on 1 September 2020. Somewhat curiously, the note records that there would appear to have been no breakdown in trust between the parties. It also records that Mrs İşbilen understands “*quite a lot of English*”. Mr McCourt Fritz submitted that this appears to be a self-serving document which is at odds with a subsequent email from Mr Buckland saying that she “*speaks little English*”. It is not

necessary for me to reach any conclusion on this evidence, but I am satisfied that it is at best equivocal and does not constitute a reason for refusing a search order.

Permission to rely on cross-examination

25. Ms Treacy's order for cross-examination of Mr Turk was subject to a proviso that the evidence may not be used without the court's permission. No reason was given for the imposition of this condition; Mr McCourt Fritz told me that it was included because this was the basis on which Mr Turk consented to being cross-examined.
26. It is clear that the order was made in lieu of ordering a further affidavit in compliance with the disclosure order made by Miles J. That order had been made in support of the WFO and in order to enable Mrs İşbilen to obtain the evidence needed to bring a tracing claim. It follows that I should permit the evidence obtained in cross-examination to be used in support of the current application, which is made for the same two reasons.

The law

27. The jurisdiction to make a search order arises under section 7(1)(a) of the Civil Procedure Act 1997 and CPR rule 25.1(1)(h). Section 7(1)(a) gives the court power to make a search order "*for the purpose of securing, in the case of any existing or proposed proceedings in the court the preservation of evidence which is or may be relevant*".
28. In *Arcelormittal USA LLC v Essar Steel Ltd* [2019] 2 All ER (Comm) 414 Jacobs J helpfully summarised the conditions which need to be satisfied before making a search order:

"97. The case law has consistently stressed that a search order is an exceptional, not a routine, order, and that it is one that requires careful justification. ...

98. [Counsel] summarised the requirements as follows:

(a) A strong prima facie case that there is a civil cause of action. That must relate, presumably to the case on the merits in the proceedings.

(b) A serious ‘danger to the claimant’ that the order will avoid: the evidence to be preserved must be ‘of major, if not critical, importance’.

(c) Clear evidence that the respondent to the order possesses ‘incriminating documents or things’. For ‘incriminating’ one should probably substitute ‘relevant evidence’, having the characteristics set out above, ie ‘relevant evidence of major, if not critical, importance’.

(d) A ‘real possibility’ that that evidence will be destroyed if the relief is not given.

(e) Proportionality: that the harm to the respondent will not be out of proportion to the legitimate object of the order.

99. I agree with this summary. It is also clear that unless those conditions are satisfied, an order should be refused. If they are satisfied, an order may or may not be granted: it remains a matter of discretion. ...

101. ... I see no reason why a search order cannot be ancillary to proceedings, such as the present proceedings, in which a WFO has been granted and which is to remain in place. The important question is whether the evidence to be preserved is, or may be, relevant to those proceedings.”

29. In *TBD (Owen Holland) Ltd v Andrew Simons* [2021] 1 WLR 992 Arnold LJ (with whom David Richards and Newey LJ agreed) surveyed the history of search orders over the past 50 years and concluded as follows:

“175. ... First, the purpose of a search order is to preserve evidence, whether documentary or real, and/or property in order to prevent the defendant from altering, destroying or hiding such evidence or property if given notice. The purpose of inspecting documents during the course of the search, to the extent permitted by the order, is to identify documents which should be preserved. Secondly, the facts that justify a search order being made may also in appropriate cases justify the making of without notice orders for the disclosure and inspection of documents and/or the provision of information pursuant to either CPR Part 18 or the court’s

inherent jurisdiction, but nevertheless the two types of orders are distinct, require separate justification, have different effects and must not be conflated. Thirdly, both search orders and without notice orders for the disclosure and inspection of documents and/or the provision of information must contain proper safeguards for the respondent, and those safeguards must be respected during the execution of the order. It follows from the second point that the safeguards required for without notice orders for the disclosure and inspection of documents and/or the provision of information are different to those required for search orders.”

30. *TBD* is the leading authority on imaging orders. Arnold LJ said:

“178. In the present context, imaging has both advantages and disadvantages. The key advantages are that (i) it is a relatively non-intrusive process which does not involve any removal of documents and (ii) it enables all digital evidence to be preserved for subsequent analysis. The key disadvantage is that imaging is, by its very nature, incapable of discrimination between information that is relevant to the issues in the proceedings and information that is irrelevant, or between business information and personal information, or between information that is subject to legal professional privilege and information that is not. Thus imaging can only ever be a preservation step, and it must be followed by proper consideration of the issues of disclosure and inspection of the documents preserved by the imaging process.

179. The availability of imaging has important consequences for search orders which in my experience have frequently been disregarded. The first is that, if what is needed is a remedy to preserve evidence in order to ensure that it cannot be altered, destroyed or hidden, then in many cases an order requiring the respondent to permit imaging of its digital devices and cloud storage (“an imaging order”) will be the most effective means of achieving that objective. The second, which follows from the first, is that, if an imaging order is made, then that may well make a traditional search order unnecessary, or at least may enable the scope of the search

order to be significantly restricted e.g. to articles as opposed to documents.

180. It has become increasingly common for claimants in cases like the present one to make without notice applications seeking both a traditional search order and an imaging order. In my view, any court confronted with such an application should first consider whether to grant an imaging order. If the court is prepared to grant an imaging order, then it should be presumed unless the contrary is shown that a traditional search order is unnecessary. Even if the court is prepared to grant a search order at all, careful consideration should be given as to the scope of the order having regard to the imaging order.

181. Where an imaging order is made, it should be obvious that appropriate safeguards are required for the protection of respondents. Experience shows, however, that applicants and courts do not always give proper consideration to the safeguards that should be provided. By contrast with search orders, no standard form of imaging order has been developed. ...”

31. Arnold LJ concluded:

“193. ... the basic safeguard required in imaging orders is that, save in exceptional cases, the images should be kept in the safekeeping of the forensic computer expert, and not searched or inspected by anyone, until the return date. If there is to be any departure from this, it will require a very high degree of justification, and must be specifically and explicitly approved by the court.”

32. Although search orders are typically sought at the outset of proceedings, section 7(1)(a) makes it clear that they may be sought in the course of existing proceedings. I was referred to *London Partners Capital Management LLP v Utkan* [2021] EWHC 423 (Comm) as an example of a case in which Moulder J made a search order in aid of a previously granted WFO. Her judgment also confirms at [16] that the court has jurisdiction to make a search order in order to make a freezing order effective.

Discussion

33. I now consider the five issues identified by Jacobs J.

(1) Does Mrs İşbilen have a strong prima facie case on the merits?

34. I am satisfied, for the following reasons, that Mrs İşbilen has a strong prima facie case on the merits. (I emphasise, as Miles J did, that this conclusion is reached without in any way prejudging whether that case will ultimately succeed at trial.) My reasons are as follows:

- i) Mrs İşbilen's first affidavit and Mr Tickner's fourth affidavit are both impressive documents. I have looked at a selection of the documents in the massive exhibit to Mr Tickner's affidavit, which gives me the necessary degree of confidence that the facts alleged in that affidavit appear to be corroborated by documentary evidence.
- ii) Mrs İşbilen is now in a stronger position in two respects in putting forward her case as to the facts than she was at the original WFO application. Firstly, Mr Turk has never applied to set aside the WFO. Secondly, although Mr Turk has asserted that Mrs İşbilen was a sophisticated investor and that she speaks good English, I have seen no corroborative evidence to support this (save for the attendance note made by Mr Buckland, to which I attach little weight for the reason given in paragraph 24 above). Nor has he produced any other evidence which undermines Mrs İşbilen's case. In contrast, the deficiencies in Mr Turk's disclosure are a reason why I should treat his assertions in his Defence and witness statement with considerable caution.
- iii) The case pleaded in the APOC appears to draw appropriate legal conclusions from the facts alleged. In particular, there is a strong prima facie case of undue influence (see paragraph 14 above).
- iv) Mr Turk's application for reverse summary judgment was dismissed by Mr Isaacs QC as being totally without merit.

(2) Is the evidence which Mrs İşbilen seeks to preserve of major, if not critical, importance?

35. The evidence in Mr Tickner's affidavit shows that there appears to be a complex web of bank accounts and transactions which relate to the ways in which Mrs İşbilen's money and assets were dealt with. Many of the documents disclosed so far have shown that there are trails leading to yet further documents. I am told that none of the steps taken so far have resulted in the disclosure of any assets bought with her money which are traceable. The evidence which Mrs İşbilen seeks to preserve is plainly of major, if not critical, importance in getting to the end of each trail and finding out what has become of her money and assets, as well as seeing what assets of Mr Turk are covered by the WFO.

(3) Is there clear evidence that Mr Turk possesses relevant evidence falling within the description in (2)?

36. It is apparent from the history set out above that Mr Turk has not disclosed all the documents which he is required to disclose and that he is likely to have considerably more evidence which should have been disclosed.

(4) Is there a real possibility that the evidence will be destroyed if the order is not made?

37. I am satisfied that there is at least a real possibility that Mr Turk will destroy, hide or tamper with the evidence if the order is not made. I reach this conclusion in reliance on the affidavits of Mrs İşbilen and Mr Tickner and the APOC, all of which provide cogent evidence both of dishonesty by Mr Turk and of refusal to comply with his disclosure obligations.

(5) Is the legitimate object of the order proportionate to any harm that the order may cause to Mr Turk?

38. In *TBD* Arnold LJ said at [174] that the standard form of search order, which has been developed over more than 25 years, should be used unless there is good reason to depart from it. Counsel for Mrs İşbilen have helpfully given

me a draft order on which they have highlighted all the changes which they seek to the standard form of order. The most significant changes are as follows:

- i) The supervising solicitor is to be accompanied by a digital forensic specialist, as well as by Mr Tickner and other solicitors within Peter & Peters Solicitors LLP.
- ii) Mr Turk must give the digital forensic specialist access to all information stored on any electric device, with a view to forensic images being made.
- iii) Mrs İşbilen and her solicitors are not to search, review or inspect any of the material obtained as a result of the search before the return date, except so far as necessary to ascertain that the material is a listed item or to take copies of listed items so that the originals may be returned to Mr Turk.

39. In *Utkan* at [30] Moulder J said that proportionality involves the court considering whether there has been any delay and whether what will be achieved by the order can more appropriately be obtained through a less intrusive order which may be less damaging to the defendant.

40. As regards delay, it has been a year since the WFO was first obtained. However, the evidence I have seen indicates that the delay is not through any fault of Mrs İşbilen, but has resulted from the many steps which Mrs İşbilen has needed to take in her quest for disclosure, as well as the delay caused by Mr Turk's failed application for reverse summary judgment. I am satisfied that Mrs İşbilen should not be penalised for having taken a cautious, step-by-step approach, and that she has not been guilty of unnecessary delay. It is, of course, possible that the delay in making this application might mean that the evidence has already been destroyed, but that risk is not so great as to make it pointless to make the order. It is inherently unlikely that the delay will have caused any prejudice to Mr Turk.

41. I have considered the prejudice which is likely to be caused to Mr Turk and to any third parties which seems to me to be as follows:

- i) The invasion of his privacy which is an inevitable consequence of any search order.
 - ii) Disruption to his home or his business (he has failed to disclose whether his address is a residential or business address) during the short time that the search is being conducted and that any electronic devices are being examined.
 - iii) Possible reputational damage, although it is hard to see what they might be, given the WFO which is already in place.
 - iv) It is impossible to know whether there are any third parties who might be affected or might suffer prejudice, given Mr Turk's failure to make disclosure about his address. However, it is clear that the court has jurisdiction to make an order, at least against third parties to whom a *Norwich Pharmacal* order might be made: *Koldyreva v Motylev* [2020] EWHC 3084 (Ch), Meade J at [5] to [7] and [17] to [18].
42. By contrast, the prejudice suffered by Mrs İşbilen if I do not make the order is that she will be denied the only relief which stands any real chance of enabling her to trace her assets and give effect to the WFO. I am satisfied that the order sought is proportionate, especially in view of the provision that the evidence is not to be reviewed by Mrs İşbilen but is to be retained by the supervising solicitor until the return date. This should enable the evidence to be safeguarded without giving Mrs İşbilen the benefit of reading the evidence in advance of the return date, when Mr Turk will have a proper opportunity to challenge the order.

(6) Discretion

43. I remind myself that Mrs İşbilen is not automatically entitled to an order. Although she has satisfied me on all of the five issues discussed above, I must nevertheless stand back from the detail and ask myself whether the court should exercise its discretion to grant the order in all the circumstances. I am satisfied that there is a strong prima facie case that a major fraud has been committed by Mr Turk on Mrs İşbilen, that she has exhausted all less intrusive routes to obtain disclosure, and that the proposed order is the least intrusive

order which is likely to provide her with the evidence which it appears that Mr Turk has so far wrongfully withheld from her.

Disposition

44. I am satisfied that I should make a search order. I will discuss the precise terms of the order with counsel.