



Neutral Citation Number: [2021] EWHC 3229 (QB)

Claim Nos: QB-2013-001681  
QB-2013-001685

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

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 30/11/2021

**Before :**

**THE HONOURABLE MR JUSTICE MORRIS**

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**Between :**

**(1) HASSAN KHAN & CO**  
**(2) THE KHAN PARTNERSHIP LLP**  
**- and -**

**Claimant**

**(1) MRS IMAN SAID AL-RAWAS**  
**(2) MR THAMER AL-SHANFARI**

**Defendant**

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**Sir Geoffrey Cox QC and Ben Walker-Nolan** (instructed by **The Khan Partnership LLP**)  
for the **Claimants**

**The Defendants** were not present and were not represented

Hearing dates: 30 November 2021

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**Approved Judgment**

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

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THE HONOURBLE MR JUSTICE MORRIS

**Mr Justice Morris :**

**Introduction**

1. On 27 September 2021 I found that each of the First and Second Defendants (“Mrs Al-Rawas” and “Mr Al-Shanfari” respectively) was in contempt of court for breach of court orders and for making false statements in oral evidence. I further found that Mr Al-Shanfari was in contempt of court for making false statements verified by statement of truth in a written witness statement. By order dated 13 October 2021 (“the Order”) I adjourned sentence and penalties until today. There were 14 charges of contempt. Mr Al-Shanfari is in contempt in respect of 12 of those charges. Mrs Al-Rawas is in contempt in respect of the two remaining charges.

**The Liability Judgment and the findings of contempt**

2. The history of the proceedings and the detail of the 14 charges of contempt are set out in my judgment of 27 September 2021 (“the Liability Judgment”). In this judgment, I use the same terms and definitions as in the Liability Judgment. The contempts comprised breach of court orders, namely failure to disclose information and/or to provide documents as required by the Part 71 Orders; making false statements on oath at the Part 71 Hearing and making false statements in a subsequent witness statement, the January Statement: see Liability Judgment, paragraphs 7 to 9, 148 and Appendix 2.
3. In accordance with CPR 81.8(6), and for the reasons set out fully in the Liability Judgment, the Court’s findings on the allegations of contempt are as follows.
4. In respect of Mr Al-Shanfari, the following charges of contempt are proved to the criminal standard and he is guilty of contempt of court in respect of those charges (which are more fully set out in the Schedule of Allegations of Contempt (“the Schedule”)).

***Banking***

*Charge 1*

Mr Al-Shanfari was in breach of paragraphs 1.1, 1.2, and paragraphs 1, 2, 3, 5, 6, and 8, of Schedule 2 of the Part 71 Orders in failing to produce at court at the Hearing banking and financial documents including statements for his accounts with National Bank of Oman, with Bank of Beirut, and with Bank Dhofar; and any record of financial transactions undertaken including Western Union transfers.

*Charge 2*

Mr Al-Shanfari gave false evidence on oath at the Part 71 Hearing by making false statements, namely that his accounts with National Bank of Oman and with Bank of Beirut and with Bank Dhofar were not bank accounts and that he had no bank, building society or other accounts.

*Charge 3*

Mr Al-Shanfari knowingly made false statements in the January Statement, namely that he did not have a bank account or a credit card.

### ***Mortgage***

#### ***Charge 4***

Mr Al-Shanfari was in breach of paragraphs 1.1, 1.2, 1.7 and paragraphs 1, 2, 5, 12 and 15 of Schedule 2 of the Part 71 Orders in failing to produce at court at the Hearing documents concerning the mortgage on his main residence in Oman, No. 15 Boshar Multistory building, including application documents in respect of the mortgage, the mortgage agreement, the facilities agreement, mortgage accounts and statements showing charges and interest and transactional records showing payments or repayments of mortgage funds or of interest.

### ***Zimbabwe***

#### ***Charge 5***

Mr Al-Shanfari was in breach of paragraphs 1.1, 1.2, 1.6 and paragraphs 9, 12, 13 and 15 of Schedule 2 of the Part 71 Orders in failing to produce at court at the Hearing documents concerning property in Zimbabwe in which he held a beneficial interest, namely 57 Folyjon Crescent, Harare Zimbabwe, including the deeds of trust through which he held a beneficial interest, documents relating to the ownership of the property by Bourhill Investments (Private) Limited and Graphic Investments (Private) Limited, documents regarding his position as director of those companies and valuations of the property.

#### ***Charge 6***

Mr Al-Shanfari gave false evidence on oath at the Part 71 Hearing by making four false statements, namely that: he had no business interests in Zimbabwe since 2008; no judgments in his favour; he had not filed court papers in Zimbabwe in an action against Mr Kazi and that Kamal Khalfan had won that judgment; and 57 Folyjon was in negative equity and he would probably have to pay to sell it. However, subparagraphs c and d of Charge 6 as set out in the Schedule are not proved.

#### ***Charge 7***

Mr Al-Shanfari knowingly made false statements in the January Statement, namely that his assertion that 57 Folyjon was in negative equity was nothing but the truth, that he did not own control or have a shareholding in any entity that owned 57 Folyjon and that he had no interest in the judgment debt against Mr Kazi.

### ***Companies***

#### ***Charge 8***

Mr Al-Shanfari was in breach of paragraphs 1.1, 1.2, 1.6, 1.8. 1.11 to 1.13 and paragraph 4 of Schedule 2 of the Part 71 Orders in failing to produce at court at the

Hearing any documents concerning his shareholdings, official positions or interests in, and failed to produce documents relating to, one UK company, one French company and 14 Omani companies, as identified in the Charge.

*Charge 10*

Mr Al-Shanfari gave false evidence on oath at the Part 71 Hearing by making false statements namely that he was not, and could not be, a director or shareholder of any company and that he did not hold any interests in any company or operate businesses through any company.

*Charge 12*

Mr Al-Shanfari knowingly made false statements in the January Statement, namely that, at the time, he was not a director of any company and had no shares or investments.

***Schedule 1 companies***

*Charge 13*

Mr Al-Shanfari was in breach of paragraphs 1.1, 1.2, 1.6, and Schedule 1 of the Part 71 Orders in failing to produce at court at the Hearing any information or document concerning his beneficial interests in or control over Oasis Maritime Services LLC and Trans Gulf Energy FZE. The charge in respect of Oasis Energy LLC is not proved.

*Charge 14*

Mr Al-Shanfari gave false evidence on oath at the Part 71 Hearing by making false statements, namely that he had no interest in or control over Oasis Maritime Services LLC and Trans Gulf Energy FZE. The charge in respect of Oasis Energy LLC is not proved.

5. In respect of Mrs Al-Rawas, the following charges of contempt are proved to the criminal standard and she is guilty of contempt of court in respect of those charges (which are more fully set out in the Schedule).

*Charge 9*

Mrs Al-Rawas was in breach of paragraphs 1.1, 1.2, 1.6, 1.8, 1.11 to 1.13 and paragraph 4 of Schedule 2 of the Part 71 Orders in failing to produce at court at the Hearing any document concerning her shareholdings, official positions or interest in, and failed to produce documents relating to, four Omani companies, as identified in the Charge.

*Charge 11*

Mrs Al-Rawas gave false evidence on oath at the Part 71 Hearing by making false statements namely that she had no interests in any companies other than two specified companies she had identified at the Hearing.

6. Thus, in the case of Mr Al-Shanfari, of the 12 Charges proven, five concern breaches of the Part 71 Orders in respect of his failure to provide the documents and information required; four concern interference with the due administration of justice, arising out of Mr Al-Shanfari's false statements under oath in oral evidence during the Part 71 Hearing; and three concern false written statements made by Mr Al-Shanfari in the January Statement, repeating and amplifying aspects of his lies under oath at the Part 71 Hearing. In the case of Mrs Al-Rawas, of the two Charges proven, one concerns breaches of the Part 71 Orders in respect of her failure to provide the documents and information required and the other charge concerns interference with the due administration of justice, arising out of Mrs. Al-Rawas's false statements under oath in oral evidence during the Part 71 Hearing.

### **Service of the Liability Judgment**

7. On the day of handing down, the Liability Judgment was sent by emails to the Defendants' Omani lawyers and, under cover of a letter, to Oliver Mishcon, counsel, who had previously been involved on the Defendants' behalf (as explained in paragraph 57 of the Liability Judgment). Mr Mishcon subsequently acknowledged receipt of the Liability Judgment, whilst at the same time declining to accept service of it. Despite being so requested, Mr Mishcon did not provide confirmation that the Liability Judgment had been provided to Mr Al-Shanfari.

### **Events following the Liability Judgment**

8. In the Liability Judgment I invited submissions from both parties as to the approach for sentencing and next procedural steps.
9. The Claimant made written submissions dated 4 October 2021. On 6 October 2021 Oliver Mishcon wrote to the Court, informing it about expected changes to the Defendants' representation, indicating that a law firm was to be engaged to provide him with instructions, that the process could be time-consuming and that substantive submissions almost certainly would be made to the Court on the Defendants' behalf "in the light of the recent judgment".

### **The Order**

10. Following receipt of submissions, the Order fixed today's hearing for sentence and directed the Defendants to attend in person. At the same time the Court issued bench warrants requiring the Defendants to attend. The Order made directions, first, for the Defendants to provide witness statements setting out mitigation and supporting evidence by 18 November and for the parties to file and serve skeleton arguments by 25 November. The Order also provided for alternative service of any documents by leaving copies at the Defendants' home address in Oman. In my reasons attached to the Order, I warned the Defendants of the likelihood of a prison sentence in the following terms:

*"The findings of contempt set out in my judgment dated 27 September 2021 are so serious that there is a real likelihood of a term of imprisonment being imposed. I adjourned sentence so that the Defendants should have the opportunity to reflect on this, and to remedy their failures so as to purge their contempt*

*and/or to put before the court any other matters of mitigation before I proceed to sentence.”*

11. As regards the timing of the hearing for sentence I went on to observe as follows:

*“The sentencing hearing is fixed for a one day hearing on 30 November 2021. The Defendants themselves must attend that hearing and I have issued bench warrants requiring them to do so.*

*I have noted the contents of Mr Mishcon’s letter of 6 October 2021. The timetable for, and leading up to, the sentencing hearing set out in this order will give the Defendants sufficient time in which to instruct new legal representatives, should they choose to do so.”*

### **Events since the Order**

12. The Order was sent by email to the Defendants’ Omani lawyers and to Oliver Mishcon by email on 15 October 2021.
13. On 1 November 2021 the Liability Judgment and the Order were served on the Defendants by being left at their home address in Oman by a qualified Omani lawyer instructed by the Claimants, in accordance with paragraph 5 of the Order. In addition, the Omani lawyer attempted to effect personal service of the Liability Judgment and the Order upon the Defendants at two further relevant addresses in Oman.
14. The Defendants did not provide witness statements by 18 November and have not substantively responded to the Liability Judgment or the Order since 27 September 2021.
15. The Claimants filed their skeleton argument on 25 November. No skeleton has been filed by the Defendants. After Mr Mishcon’s letter of 6 October 2021 to the Court and copied to the Claimants, nothing further was heard from Mr Mishcon or any other representative of the Defendants. The Defendants’ Omani lawyers and Mr Mishcon were notified yesterday of the time and place of today’s hearing. Mr Mishcon responded by stating that he was not instructed to appear.
16. The Defendants have not attended today’s hearing either in person or by legal representation. The Claimants appear by leading and junior counsel as before, and have made oral submissions.
17. I have considered whether it is appropriate to proceed to sentence in the absence of the Defendants. In view both of the history of these proceedings as set out in paragraphs 32 to 66 of the Liability Judgment and of events since then, I am satisfied that adequate steps have been taken to draw to the Defendants’ attention the Liability Judgment, the Order and the fact and nature of today’s hearing and that it is appropriate to proceed to determine sentence in their absence.
18. Moreover, as explained below, there will be liberty to the Defendants to apply to vary or remit my sentence on the ground that they have either wholly or in part purged

their contempt, should they choose to do so. Any such application will have to be made in accordance with the CPR. It will have to be issued and served on the Claimants' solicitors and there will have to be served with it any evidence relied upon.

### **Relevant legal principles on sentence for contempt of court**

19. As regards sentencing for contempt comprising breach of a court order and interfering with the course of justice by making false statements on oath and as verified by statement of truth, I have been referred to a number of relevant authorities, including *Crystal Mews Limited v Metterick & Others* [2006] EWHC 3087 (Ch) at §§ 8 and 13, 17; *Aspect Capital Limited v Christensen* [2010] EWHC 744 (Ch) at §52; *JSC BTA Bank v Stepanov* [2010] EWHC 794 (Ch); *JSC BTA Bank v Solodchenko* [2011] EWHC 2908 (Ch); *JSC BTA Bank v Solodchenko (No 2)* [2012] 1 WLR 350 at §§ 45, 52 to 57, and 66 to 67; *Asia Islamic Trade Finance Fund Ltd v Drum Risk Management Ltd* [2015] EWHC 3748 (Comm) at §7; *Mezh Prom Bank v Pugachev* [2016] EWHC 258 (Ch); *Liverpool Victoria Insurance Co Ltd v Khan* [2019] EWCA Civ 392 at §§58-60, 69; *Financial Conduct Authority v McKendrick* [2019] EWCA Civ 524 at §§39 to 48, 69; *Oliver v Shaikh* [2020] EWHC 2658 at §§ 14 to 18; *Kea Investments Ltd v Watson* [2020] EWHC 2796 (Ch) at §14; *Nobu Su v. Lakatamia Shipping Limited* [2021] EWCA Civ 1355 at §32; and *XL Insurance Company SE v IPORS Underwriting and others* [2021] EWHC 1407 (Comm) at §§88 to 113. In relation specifically to false statements on oath, I have been referred to *R v. Jeffrey Archer* [2002] EWCA Crim 1996 at §63. I have also been referred to sentencing guidelines for criminal cases, and in particular the Sentencing Council's General Guideline: Overarching Principles.
20. From these authorities I derive the following propositions which are applicable to the present case . In so doing I adapt and supplement the summary of Mr Justice Poplewell (as he then was) in the *Asia Islamic Trade* case.
21. First, the object of the penalty is both to punish the contemnor and deter others and to serve a coercive function by providing an incentive for future compliance as the contemnor may seek a reduction or discharge of sentence if he subsequently purges his contempt.
22. Secondly, in all cases it is necessary to consider (a) whether the conduct is so serious that a sentence of imprisonment is necessary; (b) what is the shortest time necessary for such imprisonment; (c) whether a sentence of imprisonment can be suspended; and (d) that the maximum sentence which can be imposed on any one occasion is two years.
23. Thirdly, consideration of the seriousness of the contempt involves consideration of both the degree of culpability on the part of the contemnor and the degree of harm caused; that is, principally, harm to the administration of justice.
24. Fourthly, a breach of a court order is always serious because it undermines the administration of justice and usually merits an immediate sentence of imprisonment of a not insubstantial amount. The maximum sentence of two years is not reserved for the very worst cases; there is a broad range of conduct which falls within the most serious category thereby justifying a sentence at or near the maximum.

25. Fifthly, breach of a court order made after judgment made in support of the claimant's rights resulting from that judgment is a more serious contempt of court than breach of a pre-judgment order.
26. Sixthly, where there is a continuing breach the Court should consider imposing a long sentence, possibly even a maximum of two years, in order to encourage future cooperation by the contemnors. In the case of a continuing breach, the Court may, at its discretion, see fit to indicate (a) what portion of the sentence should be served in any event as punishment for past breaches; and (b) what portion of a sentence the Court might consider remitting in the event of prompt and full compliance thereafter. Any such indication would be persuasive, but not binding upon a future court. If it does so, the Court will keep in mind that the shorter the punitive element of the sentence, the greater the incentive for the contemnor to comply by disclosing the information required. On the other hand, there is also a public interest in requiring contemnors to serve a proper sentence for past non-compliance with court orders, even if those contemnors are in continuing breach.
27. Seventhly, contempt comprising false statements verified by a statement of truth is always serious because it too undermines the administration of justice and usually merits a sentence of imprisonment.
28. Eighthly, the factors which may make the contempt more or less serious include the following:
  - (a) whether the claimant has been prejudiced by virtue of the contempt and whether the prejudice is capable of remedy;
  - (b) the extent to which the contemnor has acted under pressure;
  - (c) whether the breach of the order was deliberate or unintentional;
  - (d) the degree of culpability;
  - (e) whether the contemnor has been placed in breach of the order by reason of the conduct of others;
  - (f) whether the contemnor appreciates the seriousness of the deliberate breach;
  - (g) whether the contemnor has co-operated;
  - (h) whether there has been any acceptance of responsibility, any apology, any remorse or any reasonable excuse put forward.
29. Ninthly, in relation to false statements on oath, there are a number of factors relevant to the assessment of seriousness, including the number of offences, the timescale over which they are committed, whether they are planned or spontaneous, and whether they have had any actual impact upon the proceedings in question.
30. Tenthly, the Court will also take into account the contemnor's character and antecedents and personal circumstances.



31. Finally, where there are multiple acts of contempt the Court may pass a single sentence for the totality of the contempt or impose separate sentences for each which may then be fixed to run concurrently or consecutively up to a total of two years. On either approach, the total sentence should reflect all the offending behaviour and be just and proportionate. This is explained in the relevant Sentencing Guideline, as follows: *“Where concurrent sentences are to be imposed, the sentence should reflect the overall criminality involved. The sentence should be appropriately aggravated by the presence of the associated offences.”*

### **The present case**

32. The Claimants submit, in the case of Mr Al-Shanfari, that the breaches and false statements were deliberate and intentional and in some cases particularly flagrant, that the degree of culpability was high, that the harm caused was high, and that there are no mitigating factors. In the case of Mrs Al-Rawas too, they submit that culpability and harm were also high, although not to the same extent as in the case of her husband.
33. In my judgment, these are serious, persistent and deliberate breaches of court orders and false statements, on the part of both Mr Al-Shanfari and Mrs Al-Rawas. The breaches of the Part 71 Orders are continuing. Their objective throughout, and over a considerable number of years, has been to disrupt, frustrate and protract proceedings and to avoid compliance with court orders and ultimately to evade payment of the judgment sums properly due to the Claimants pursuant to judgments of this Court, entered more than 3½ years ago. This is more fully explained in the Liability Judgment at paragraphs 31, 60 to 66, 76 and, in respect of individual charges at paragraphs 86(5), 87(4), 104(5) 107(4) 128(5) 129(5), 130(4) and 147(5).
34. In the case of Mr Al-Shanfari, his repeated acts of contempt, under 12 separate charges, comprise flagrant, wholesale and persistent breaches of court orders and deliberate and intentional false statements both in oral evidence and in a witness statement. The breaches occurred against a background of previous non-compliance with earlier court orders. Mr Al-Shanfari had long stated that he intended not to pay the judgment debts: see Liability Judgment at paragraphs 14 and 31(2). He had failed to attend court on four previous occasions and was twice previously found to be in contempt and made subject to suspended committal orders: see Liability Judgment at paragraph 31(3). During the Part 71 Hearing itself, he stated that he regarded the judgment debts as fake judgments and that he did not owe the Claimants anything: see Liability Judgment at paragraph 24. For these reasons I find that Mr Al-Shanfari’s culpability is very high.
35. As regards harm, there is real prejudice to the Claimants in not having received relevant and important information about Mr Al-Shanfari’s assets and financial affairs, being essential for a claimant seeking to enforce a long standing judgment of this Court for a substantial sum. He has deliberately impeded the enforcement of a significant judgment debt. Not only has this caused prejudice to the Claimants, but more importantly, his deliberate and continuous flouting of judgments and orders of this Court gives rise to considerable harm to the due administration of justice.
36. There is no relevant mitigation. Mr Al-Shanfari has made no admissions, provided no co-operation or explanations and has not offered any apology. He has been provided

with repeated opportunities to come before the Court to explain, to put forward mitigating factors and to apologise, - and to purge his contempt. He has chosen not to participate in these contempt proceedings, whilst at the same time seeking to be involved, by harrying from the sidelines, through lawyers who decline to come on the record. He has instructed direct access counsel in this country and had almost two months to find the further legal representation to make the submissions to which Mr Mishcon referred in his letter to the Court.

37. Accordingly, these were very serious multiple acts of contempt for which the only appropriate sentence is one of imprisonment. In the light of paragraphs 24 to 30 above and, set against sentences in cases to which my attention has been drawn as referred to above, a sentence at the maximum is justified. Considering the charges as part of an overall course of conduct, I see no reason for distinguishing in sentence between the three different types of contempt. Further in these circumstances, there is no basis upon which it would be appropriate to suspend the sentence. Such a sentence is unlikely to encourage compliance with the Court's orders, and in any event, the possibility remains of an application under CPR 81.10 to apply for a discharge or reduction.
38. In the case of Mrs Al-Rawas, she has been found guilty of two charges only, and her failures have a more limited ambit, being confined to a failure to disclose, and lying about, her interests in four particular Omani companies. Nonetheless by taking the same stance as her husband both in respect of the Part 71 Orders and at the Part 71 Hearing, I find that she agreed to support him by participating in a joint plan to make only limited and incomplete disclosure in order to frustrate enforcement proceedings and to evade payment of a judgment debt due from her (as well as the judgment debt due from her husband): see Liability Judgment at paragraph 129(5)). Whilst Mr Al-Shanfari played the leading role, she played an important part in the defiance of, and non-compliance with, the court orders and enforcement process.
39. In those circumstances many of the factors going to culpability and harm which I have identified in the case of Mr Al-Shanfari apply equally to her conduct. She too has refused to discharge any sum towards the judgment debt and she too failed to attend court on four previous occasions and was twice previously found in contempt of court and made subject to suspended committal orders.
40. I consider that the culpability and harm of her acts of contempt are both high, albeit not as high as in the case of Mr Al-Shanfari. Her acts of contempt were fewer and more confined in scope; she did not make false statements in a witness statement and her false statements on oath were not as flagrant or extensive. She played a supporting role, rather than the leading role.
41. However, in her case too, there is no relevant mitigation. Mrs Al-Rawas has made no admissions, provided no co-operation or explanations and has not offered any apology. She too has been provided with repeated opportunities to come before the Court both to explain, to put forward mitigating factors and to apologise. She has chosen not to do so.
42. Accordingly, in these circumstances, Mrs Al-Rawas committed serious acts of contempt for which the only appropriate sentence is one of imprisonment and, set

against sentences in cases to which my attention has been drawn as referred to above, warrant a substantial term of imprisonment.

### **Approach to sentence**

43. I will impose concurrent sentences. In respect of each Defendant there will be a sentence of imprisonment for a lead Charge, with sentences for further Charges to be served concurrently. The sentence for each Charge will be adjusted upwards to take account of totality (as above). That adjustment will be significantly greater for Mr Al-Shanfari, in view of his guilt of 12 charges, in comparison with Mrs Al-Rawas's guilt on two charges only.

### **The Sentence**

44. I therefore sentence Mr Al-Shanfari to a custodial sentence composed of 24 months in relation to Charge 1 with concurrent sentences of 24 months for each of Charges 2 to 8, 10 and 12 to 14.
45. I sentence Mrs Al-Rawas to a custodial sentence composed of 15 months in relation to Charge 9 with a concurrent sentence of 15 months for Charge 11.
46. When they are apprehended then, subject to any application under CPR 81.10, each Defendant will be committed to prison for those periods. Warrants of committal will be issued and the bench warrants issued in October 2021 will be discharged.

### **Application to purge**

47. CPR 81.10 contains the rules for applying to discharge a committal order. In the light of paragraph 26 above, I have considered whether I should indicate what portion of the sentences might be likely to be remitted if the Defendants were to seek to purge their contempt by belatedly complying with the Part 71 Orders and otherwise providing full information or indeed paying the judgment debts. However, at this stage and without being able to consider what the position might be, I do not consider it appropriate for me to give such an indication. However if, very belatedly, Mr Al-Shanfari and Mrs Al-Rawas were to choose to comply in this way, the Court might well decide to reduce their sentences and possibly to some significant extent.
48. Finally in line with CPR 81.8(7) and (8) the Defendants will be informed of their right of appeal and a copy of this judgment will be published on the Judiciary website.
49. I will now hear argument on costs.