

CASE NO.

**BEFORE THE SOLICITORS DISCIPLINARY TRIBUNAL**

IN THE MATTER OF THE SOLICITORS ACT 1974 (as amended)

AND IN THE MATTER OF:

SOLICITORS REGULATION AUTHORITY LIMITED

Applicant

- and -

RAYMOND JOHN McKEEVE

Respondent

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**STATEMENT PURSUANT TO RULE 12 (2) OF THE SOLICITORS (DISCIPLINARY  
PROCEEDINGS) RULES 2019**

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I, **JAMES DANKS**, am a Solicitor and Partner at Blake Morgan LLP of Apex Plaza, Forbury Road, Reading, RG1 1AX.

I make this statement on behalf of the Applicant, the Solicitors Regulation Authority Limited ("**the SRA**").

**The Allegations**

The allegation against the Respondent, Raymond John McKeeve, made by the SRA are that, whilst in practice as a Registered Foreign Lawyer and Partner at Jones Day LLP ("**the Firm**") he:

- 1 On 4 July 2019, in response to being told that a Search Order to preserve evidence had been obtained against Client A and Person A, you gave instructions of '*burn it*' (or words similar to) to Person B in respect of electronic material held by Client A, and which led to a determination that you were criminally liable for contempt of court.

1.1 In doing so, he breached any or all of the following SRA Code of Conduct 2011 ('**the 2011 Code**');

a. Outcome 5.4

1.2 In doing so, he breached any or all of the following SRA Principles 2011 ('**the 2011 Principles**');

a. Principle 1

b. Principle 2

c. Principle 6

The facts and matters relied upon in support of this allegation are set out in paragraphs 7 to 35 below

### **Appendices and Documents**

1. The following appendices are attached to and relied upon in this Statement:

1.1. Appendix 1: Relevant rules and regulations.

2. I also attach to this statement a bundle of documents, marked **Exhibit JD1**, to which I refer in this statement. Unless otherwise stated, page references in this statement relate to that exhibit, using the format [**JD1, X**].

3. The bundle is divided into the following sections:

3.1. Section A: Court judgment and underlying material.

3.2. Section B: Correspondence and SRA documentation.

### **Professional Details**

4. The Respondent was born on [REDACTED] 1971 and was authorised by the Applicant as a Registered Foreign Lawyer ('RFL') on 20 February 2017.

5. At the relevant time, the Respondent was a partner at Jones Day LLP ('the Firm'), specialising in private equity.

6. The Respondent currently holds a practising certificate free from conditions.

## **Background**

7. At the relevant time, the Respondent was married to his wife, Belinda de Lucy.
8. From around 2018, the Respondent acted for **Client A**, which was founded by **Person A** by incorporation on **2018**.
9. Prior to founding **Client A**, **Person A** had been a founder of **O**, a website for online grocery shopping **[JD1, 4]**. **Client A** was similar in function to **O**.
10. In around 2018 Marks & Spencer (M&S) were looking to enter into online grocery shopping **[JD1, 4]**. Meetings between M&S and **Client A** took place during June and October 2018 **[JD1, 10]** but did not lead to a successful agreement. The Respondent advised **Client A** and **Person A** in respect of the potential agreement.
11. M&S and **O**, instead, entered into an arrangement in February 2019 **[JD1, 12]**.
12. Whilst setting **Client A** up in business, **Person A** made contact with **Person C** (**Person C**), who was at the time a senior employee of **O** **[JD1, 12]**.
13. Whilst the potential deal between **Client A** and M&S did not conclude, **Client A** did enter into arrangements with Waitrose supermarket. The Respondent remained instructed by **Client A** in respect of this deal.
14. On 15 May 2019, **Person C** resigned from his position at **O** and accepted an offer of employment as Chief Operating Officer ('COO') with **Client A** **[JD1, 13]**. The following day, 16 May 2019, Waitrose announced the commercial deal that had been entered into with **Client A** **[JD1, 13]**.
15. On 23 May, **Person C** was placed on gardening leave by **O**. During the time of his gardening leave, he remained an employee of **O**.
16. Due to suspicions that **O** had in respect of confidential information potentially being disseminated by **Person C**, it obtained a Search Order against him, **Client A** and **Person A**.

17. As a result of the Respondent's actions in respect of the Search Order, O [REDACTED] brought proceedings against him, which led to a judgment of Contempt of Court on [REDACTED] 2022 [JD1, 1].

### **Allegation 1**

#### The 3CX App

18. Paragraphs 7 to 17 are relied upon.

19. Around 17 May 2019 [JD1, 13], Client A [REDACTED] IT manager, Person B [REDACTED], created an account for a number of employees of Client A on the 3CX App ('3CX'). This application allowed for discussions, both electronic and voice, to take place between users.

20. 3CX also contained a 'burner box' facility that, if used, would destroy the communications held on it [JD1, 43].

21. Person C [REDACTED] who was on gardening leave from O [REDACTED] at the time, had an account created for him on 3CX. On 18 May 2019, Person B [REDACTED] texted Person C [REDACTED] stating [JD1, 13]:

*"In the interim you shall be called Belinda. I don't know why it was a joint effort of 4 egg heads round a table who couldn't even come up with a decent name".*

22. The reference to Belinda was a reference to the Respondent's wife, whose full name was used as a pseudonym for Person C [REDACTED] email account with Client A.

23. On 23 May 2019, Ms de Lucy was elected as a Member of the European Parliament ('EMP') [JD1, 14]

#### Contact Between Person C [REDACTED] and the Respondent

24. From the time of Person C [REDACTED] email account for Client A [REDACTED] being created, he sent the Respondent a number of emails. Due to the pseudonym applied to Person C [REDACTED] account, it appeared that the Respondent was receiving emails from his wife [JD1, 14].

25. In addition to emails from Person C [REDACTED], the Respondent also spoke to him via 3CX on three occasions (26 June, 28 June and 1 July 2019) [JD1, 15].

26. Due to Mr Person C being on gardening leave from O [REDACTED], the Respondent raised concerns with Client A on the appropriateness of Mr Person C conduct [JD1, 15]. The Respondent also raised issues with the use of his wife's name as a pseudonym for Person C [JD1, 14].
27. On or around 26 June 2019, Person C [REDACTED] pseudonym was amended from 'Belinda' to 'Josephine' [JD1, 15].

#### Concerns regarding Person C [REDACTED]

28. During June and July 2019, O [REDACTED] became concerned in respect of Person C [REDACTED]'s behaviour and communication that he may be having with Person A [REDACTED] despite being on gardening leave.
29. Part of the concerns related to suspicions that O [REDACTED] held that Person C [REDACTED] was handing confidential information regarding O [REDACTED] to Person A [REDACTED] whilst still an employee of O [REDACTED].

#### 3 July 2019

30. On 3 July 2019, the Respondent met with Person A [REDACTED] and a number of employees of Client A at the company's offices [JD1, 16].
31. The Respondent again raised his concerns that the contact taking place between Client A and Person C [REDACTED] was not appropriate, and that Person C [REDACTED] had access to Client A internal systems whilst on gardening leave from O [REDACTED] [JD1, 16].
32. On the same date, O [REDACTED] obtained an "order for search of premises and preservation of evidence" ("the Order") [JD1, 17].
33. This was ordered by Fancourt J and was in support of anticipated proceedings to be brought by O [REDACTED] against Person A [REDACTED], Client A and Person C [REDACTED].

#### The Order

34. Paragraph 7 of the Order [JD1, 18] confirmed the extent of the search allowed against the three respondents:

*"The Respondents and any Controller of Access must permit the Supervising Solicitor, the Independent Computer Specialist and*

*the Applicants' Solicitors identified in Schedule A to this order (together 'the Search Party') to:*

- (a) enter the Premises;*
- (b) access any containers within the Premises such as (without limitation) safes, boxes, briefcases and suitcases ('Containers'); and*
- (c) access any electronic data storage devices at or accessible from the Premises, such as (without limitation) computers, tablets, PDAs, mobile telephones, server data (including fileshares and email), backup media (whether cloud-based, hard drive or tapes), USB Storage devices, cloud-based IT Systems (including fileshares and email), online storage/data sharing platforms such as (without limitation) Dropbox and web-based email accounts (not including anything which is the property of the Connaught Hotel, but otherwise irrespective of whether such items are the property of the Respondents or not) (the 'Electronic Data Storage Devices'),*

*so that they can search for, inspect, photograph, electronically copy or photocopy, and deliver into the safekeeping of the Applicants' Solicitors all the documents and articles which are listed in Schedule C to this order ('Listed Items') or which the Supervising Solicitor believes to be Listed Items."*

35. The Order included a condition that the respondents could ask for the search to be delayed up to two hours to be allowed to take legal advice on its content **[JD1, 19]**.
36. The Order did, however, also contain restrictions as to what the respondents could do during that period **[JD1, 19]**:

*"32. Except for the purpose of obtaining legal advice, the Respondents and any Controller of Access must not directly or indirectly inform anyone of these proceedings or of the contents of this order, or warn anyone that proceedings have been or may be brought against it by the Applicants until 4.30 p.m. on the return date or further order of the court or such earlier time as agreed in writing by the Applicants.*

*33. Until 4.30 p.m. on the Return Date, the Respondents and any Controller of Access must not destroy, tamper with or part with possession, power, custody or control of any Listed Items otherwise than in accordance with the terms of this order provided that, after the making of the electronic copies as set out in paragraph 21 above, the Respondent is permitted to make use*

*of any Electronic Data Storage Devices in the ordinary course of business or personal use.*

*34. Until the Return Date or further order of the Court, the Respondent must not use, disclose or in any way deal with the Confidential Information (as defined in Schedule C), save for the purposes of receiving advice from the Respondent's legal advisers or as provided for in this Order."*

37. In respect of the 'Listed Items' (at paragraph 33 of the Order) **[JD1, 20]**, Schedule C of the Order stated:

*"For the purposes of this order, Listed Items shall constitute:*

*1. Any document, in hard or soft copy, (i) created by or on behalf of either of the Intended Claimants and (ii) containing Confidential Information, including:*

*a. Any reproductions of the 'dashboard' summary of the performance of the O■■■■ business;*

*b. Any reproductions of the O■■■■ businesses' weekly or monthly key performance indicator (KPI) summaries;*

*c. Any reproductions of documents relating to the projects entitled O■■■■ "Zoom" or O■■■■ 'Orbit';*

*d. Any of the underlying information or data used to produce any document in category (1) a, b or c above;*

*2. Any document, in hard or soft copy, incorporating or reproducing information from a document in category (1);*

*3. Any document, in hard or soft copy, incorporating or reproducing information about the O■■■■ business (i) which was obtained directly from a person who was at the time an employee of an O■■■■ company and (ii) which was not also publicly available at the time of its receipt by the Respondent;*

*4. Any document evidencing:*

*a. the provision to the Respondents, or obtaining by the Respondents, of any document in category (1);*

*b. the creation of any document in categories (2) and (3);*

*c. any use made by the Respondents, whether directly or indirectly, of any document in categories (1), (2) or (3), including (without limitation) any transmission or disclosure of any such document or the contents thereof to third parties; and*

*d. any work carried out directly or indirectly by any current employee of an O [REDACTED] company for or on behalf of the First or Second Respondents or the 'Client A [REDACTED]' business.*

*5. In respect of the First and Second Respondents only, any property belonging to the Applicants and which was provided to the First and Second Respondents by the Third Respondent.*

*For the purposes of this order:*

*'Confidential Information' shall constitute:*

*a) Information in whatever form (including, without limitation in written, oral, visual or electronic form or on any magnetic or optical disk or memory and wherever located) relating to the business, clients, customers, products, affairs and finances of the Applicants or any Group Company for the time being confidential to the Applicants or any Group Company and trade secrets including, without limitation, technical data and know-how relating to the business of the Applicants or of any Group Company or any of its or their suppliers, clients, customers, agents, distributors, shareholders or management, that the Third Respondent created, developed, received or obtained in connection with his employment with the Second Applicant, whether or not such information (if in anything other than oral form) is marked confidential; and*

*b) Any information described at a) above that was, at the time of its provision or disclosure to the Respondent, confidential to the Applicants or any Group Company.*

*'Group Company' shall mean the Applicants, their Subsidiaries or Holding Companies from time to time and any Subsidiary of any Holding Company from time to time.*

*'Subsidiary and Holding Company' shall mean in relation to a company, "subsidiary" and "holding company" as defined in section 1159 of the Companies Act 2006 and a company shall be treated, for the purposes only of the membership requirement contained in subsections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (a) another person (or its nominee), whether by way of security or in connection with the taking of security, or (b) a nominee."*

4 July 2019

38. The Order was executed on 4 July 2019 on Person A [REDACTED] at the Connaught Hotel [JD1, 22], where he was based at the time, by the Supervising Solicitor, Alex de Jongh at around 08:20.

39. Upon receipt of the Order, Person A confirmed that he wished to take legal advice on the Order from the Respondent [JD1, 22]
40. It was agreed that Mr de Jongh would speak to the Respondent so that the situation, and the restrictions (as above at paragraph 36), could be explained to the Respondent.
41. Person A and the Respondent spoke between 08:30 and 08:38. During that time period, Mr de Jongh also spoke to the Respondent on the telephone for a short time (approximately 1 ½ minutes) [JD1, 23].
42. During this conversation Mr de Jongh confirmed the following points to the Respondent [JD1, 23]:
- 42.1. That an order had been served on Person A;
- 42.2. The Order had been obtained from Mishcon de Reya, on behalf of O, in respect of underlying proceedings;
- 42.3. That the Respondent should not inform others of the Order, but that the respondents were allowed two hours to take legal advice;
- 42.4. That he would send a copy of the Order to the Respondent, and include the relevant lawyers at Mishcon de Reya.
43. After the telephone conversation between the Respondent and Person A (and Mr de Jongh), the Respondent sent a message to Person B via 3CX. The message stated (or used words similar) that Person B was to 'burn it' [JD1, 24].
44. Following the Respondent sending the message to Person B he also telephoned him to ensure the message was understood, and that Person B would proceed to delete 3CX [JD1, 24 and 25].
45. Following the 3CX message from the Respondent and the telephone call, Person B deleted the 3CX App and all of its contents [JD1, 26]. This deletion resulted in the information being irretrievably destroyed.
46. After the Respondent contacted Person B he subsequently contacted one his fellow partners at the Firm, Mr Sion Richards. Mr Richards specialised in litigation, and advised Person A and Client A on what was required.
47. By email of 08:59, Mr de Jongh emailed the Respondent, and attached a copy of the Order and related documents.

48. The existence of 3CX, and another set of email accounts, was not made known to Mr Richards until 9 July 2019.

#### Contempt of Court Proceedings

49. Due to the actions taken by the Respondent, O [REDACTED] commenced a Part 8 claim against the Respondent regarding an allegation of contempt of court (criminal). The claim was issued by on 25 September 2019 [JD1, 70].

50. The basis of the contempt of court application was [JD1, 71]:

50.1. The Respondent intentionally caused the deletion of documentary materials relevant to the underlying action brought by O [REDACTED], in support of which the search order had been obtained and

50.2. He intentionally took steps which thwarted the purpose of the search order.

51. The hearing took place in the Business and Property Court of England and Wales between 28 June 2022 and 4 July 2022.

#### The Respondent's Evidence

52. The Respondent gave evidence on his own behalf during the contempt proceedings.

53. During the Respondent's evidence, he confirmed that [JD1, 54]:

53.1. He was aware that mobile phones and electronic devices were being seized, and was concerned that his wife's name, and the use of that on 3CX would be made public, and suggest that she was involved with Client A in some manner;

53.2. This concern caused him to panic and to instruct Person B [REDACTED] to 'burn it' (in reference to 3CX), both via the app itself and by telephone, to avoid the use of his wife's name being discovered;

53.3. He had no intention to breach any court order, or destroy any evidence that may be relevant to court proceedings, and litigation was not his area of law, which was in respect of 'deals'.

54. An approved judgment by Mr Justice Johnson was handed down on 3 August 2022 [JD1, 1].

55. It was determined by Johnson J that the Respondent was criminally liable for contempt of court on the final ground of the claim, in respect of the destruction of 3CX [JD1, 66].

### **Representations made by the Respondent in relation to allegation 1**

56. In representations to the SRA dated 5 August 2024 [JD1, 719], the Respondent accepts that he was “...an inexperienced lawyer in commercial or any litigation or search orders...”

57. The Respondent also denies [JD1, 720] “...acting negligently, recklessly or with any intention to breach the search order...the intention and motive of [the Respondent] was solely to protect his wife and even the Court accepted this was an act of “colossal stupidity”” [JD1, 722].

### **Breaches of the Principles and the Code of Conduct in relation to allegation 1**

#### Principle 2

58. In *Wingate v SRA* [2018] EWCA Civ 366, the Court of Appeal held that integrity connotes adherence to the ethical standards of one’s profession. Lord Justice Jackson held:

*“Integrity is a broader concept than honesty. In professional codes of conduct the term “integrity” is a useful shorthand to express the higher standards which society expects from professional persons and which the professions expect from their own members”.*

59. In this matter, the Respondent directed his a person to destroy material they were required to permit O [REDACTED] and its representatives to have access to pursuant to the Order of Fancourt J of 3 July 2019 with the result that it was irretrievably lost. A solicitor acting with integrity would be astute to ensure that both they, and their clients, complied fully and timeously with such an Order. If they were in any doubt as to what need to be done in order to comply then they would seek advice from specialist Counsel or a litigation Solicitor upon the point (and would, in any case, err upon the side of caution and refrain from taking any action which might potentially breach the Order until they had received such advice).

60. The Respondent’s conduct, which was his first action following being telephoned by Mr [Person A] and before he contacted a fellow partner who was experienced with search orders, is not therefore behaviour to be expected of a solicitor acting with integrity.

61. As such, the Respondent breached Principle 2.

#### Principles 1 and 6

62. Principle 1 requires solicitors to act in a way that upholds the rule of law and the proper administration of justice.

63. Principle 6 requires solicitors to behave in a way that maintains the trust the public places in them, and the provision of legal services.

64. The rule of law and the proper administration of justice require that individuals should comply with Orders of the Court which are directed at them. Consequently, a solicitor who instructs or encourages others to act in contravention of such Orders, or does take precautions to ensure that others do, undermines the rule of law and the proper administration of justice. The Respondent's actions on 4 July 2019 encouraged Person B to destroy documents and information should have been maintained in compliance with the Order. Consequently, the Respondent breached Principle 1 of the SRA Principles.

65. Furthermore, the public would expect solicitors, as officers of the Court and members of a profession which is to be trusted to the ends of the earth, to seek to uphold Orders made by the Court. They would not expect solicitors to subvert such Orders by directing that documents and information be destroyed which the Court had directed should be disclosed. So, by behaving in the manner in which he did, the Respondent also breached Principle 2 of the SRA Principles.

#### Paragraph 5.4 of the Code of Conduct

66. Paragraph 5.4 of the Code of Conduct states that a solicitor should not place themselves in contempt of court.

67. The Respondent's actions led to a judgment on 3 August 2022 that he was liable for criminal contempt of court. As such, he is in breach of paragraph 5.4.

#### The SRA's investigation

68. The SRA issued a Notice, dated 27 June 2024, recommending referral to the Tribunal **[JD1, 691]**, which was provided to the Respondent for his comment.

69. By correspondence and representations of 5 August 2024, the Respondent, via his representative, replied to the Notice **[JD1, 716]**.

70. Additional representations were sent by the Respondent's representative on 8 August 2024 **[JD1, 730]**

71. On 30 August 2024, an Authorised Decision Officer of the SRA decided to refer the Respondent to the Tribunal **[JD1, 740]**.

### **Statement of Truth**

I believe that the facts and matters stated in this statement are true.

Signed:



Dated: 19 February 2025

**CASE NO.**

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**IN THE MATTER OF THE SOLICITORS ACT 1974 (as amended)**

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Applicant

- and -

**RAYMOND JOHN McKEEVE**

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**APPENDIX 1 TO STATEMENT PURSUANT TO RULE 12 (2)  
SOLICITORS (DISCIPLINARY PROCEEDINGS) RULES 2019  
Relevant Rules and Regulations**

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SRA Principles 2011

- Principle 1     You must uphold the rule of law and the proper administration of justice
- Principle 2     You must act with integrity
- Principle 6     You must behave in a way that maintains the trust the public places in you and provision of legal services

SRA Code of Conduct for Solicitors 2011

- 5.4             You do not place yourself in contempt of court

