

IN THE HIGH COURT OF JUSTICE

CHANCERY DIVISION

**B E T W E E N : -**

**IAN HURST**

(a.k.a. Martin Ingram)

Claimant

and

**(1) NEWS GROUP NEWSPAPERS LIMITED**

**(2) NEWS UK & IRELAND LIMITED**

**(Formerly NEWS INTERNATIONAL SUPPLY COMPANY LIMITED)**

**(3) ALEX MARUNCHAK**

**(4) JONATHAN REES**

**(5) PHILLIP SMITH**

(t/a PCS Associates)

Defendants

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**STATEMENT IN OPEN COURT**

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**Counsel for the Claimants**

(Jeremy Reed, Hogarth Chambers)

1. In this action for misuse of private information and breach of confidence, I appear for the Claimant, Mr Ian Hurst. My learned friend, Mr Hudson QC, appears for the First and Second Defendants, News Group Newspapers Limited and News UK & Ireland Limited (formerly News International Supply Company Limited).
2. The Third Defendant (Mr Alex Marunchak), the Fourth Defendant (Mr Jonathan Rees), and the Fifth Defendant (Mr Phillip Campbell Smith) have all expressly agreed, as a term of the settlement, that they do not oppose the making of this Statement in Open Court in the form

that I am about to read.

3. Mr Hurst is a former member of the British Military Intelligence. He is the husband of Noreen Hurst and the father of Enya Hurst, the two other Claimants in relation to whom this statement is being read.
4. Mr Hurst served in the Intelligence Corps and the Force Research Unit in Northern Ireland between 1980 and 1991, when he retired. His primary role was to recruit and run agents within Republican terrorist groups in order to obtain tactical and strategic intelligence.
5. Mr Hurst is also the co-author of a book published in 2004 entitled "Stakeknife", written under his then assumed identity, Martin Ingram. The book details some of his experiences with the Force Research Unit during The Troubles in Northern Ireland.
6. News Group Newspapers Limited was the publisher of the '*News of the World*' newspaper, including its Irish Edition, until the *News of the World's* closure in July 2011.
7. In 2006, a private investigator targetted the Claimant by covert means. The investigator was Jonathan Rees of Southern Investigations, who in turn instructed Philip Smith (also known as Philip Campbell Smith) known to some for his expertise in computer hacking and e-mail interception.
8. During the relevant period in 2006, the Serious Organised Crime Agency provided to the Metropolitan Police Service (or "MPS") intelligence that SOCA had received on an investigation being carried out for the *News of the World* referred to as "The Scapatizzi Investigation". Via this intelligence, the MPS were aware in 2006 that Mr Hurst's computers were being hacked and his e-mails intercepted. However, Mr Hurst was not notified by the MPS of the hacking or interception. The MPS have since apologised to Mr Hurst and his family for this failure to notify them until a meeting in October 2013.
9. The reason why Mr Hurst was initially targeted is likely to have been because a then, but now former, employee of News Group Newspapers Limited wished to locate the whereabouts of Freddie Scapatizzi, the former head of the IRA Security Division. Mr Hurst had named Mr Scapatizzi in the book he co-authored as being an agent of the British Government with the code-name "Stakeknife".
10. Having been tasked with locating the whereabouts of Freddie Scapatizzi, the investigators set about attempting to obtain information about Mr Scapatizzi from Mr Hurst. The primary means of doing so was for Mr Smith to infect the personal computers used by Mr Hurst with spying software called e-Blaster. That spyware successfully infiltrated Mr Hurst's computers and was live for a period of three months before it self-deleted as it was programmed to do so. E-blaster also infected the personal computer used by Mr Hurst's wife and daughter. That

spyware enabled Mr Smith to monitor Mr Hurst's computers for information about Mr Scapaticci, including by intercepting Mr Hurst's emails. It also enabled Mr Smith to intercept the communications of Mr Hurst's family. The full extent of the computer interception is unknown, but given the functionality of e-Blaster the interception activities by Mr Smith might have included intercepting or accessing other personal correspondence sent from, received on, or drafted on the Hurst's computers; accessing all documents stored on their computers; accessing browser histories; and logging account usernames and passwords.

11. It is known that Mr Smith obtained Mr Hurst's webmail passwords. This is likely to have been obtained using the keylogger functionality of e-Blaster. The knowledge of this password would have enabled Mr Smith to continue accessing Mr Hurst's emails after the 3-month e-Blaster infection period had ended, since Mr Hurst did not know that his system had been compromised and did not, at that time, change his email password. Mr Hurst does not know when Mr Smith finally ceased intercepting his emails.
12. It is known that Mr Smith successfully intercepted Mr Hurst's emails. A forensic investigation carried out by the MPS found copies of some of Mr Hurst's emails on Mr Smith's computer. Mr Hurst had not sent those emails to Mr Smith, and the recipients did not forward those emails to Mr Smith.
13. When information of note was obtained from Mr Hurst's emails or computers, it was passed by Mr Smith to Mr Rees. An example of this is when Mr Smith emailed Mr Rees on 26<sup>th</sup> August 2006 stating this his 'facility' had picked up Mr Hurst's wife sending out her CV which contained their address and telephone details.
14. In turn, Mr Rees sent some of this intercepted information to News Group Newspapers.
15. Mr Hurst regularly engaged in sensitive and confidential and in some cases, privileged, correspondence by e-mail with a variety of people. These included: his solicitors at the time; members of the Irish Republican movement; people within the security services; members of the Police Service of Northern Ireland; and former members of the armed forces who had infiltrated the IRA, including individuals in the police witness protection programme, resulting from their inclusion near the top of the Real IRA's hitlist.
16. By accessing Mr Hurst's computers in this manner, Mr Smith would have been able to access other private, confidential and privileged documents and communications relating to the Claimant, his wife and young family. A large number of private and personal documents including family photographs and documents relating to household (and financial) matters were stored on the computers accessed by Mr Smith.
17. The 'keylogger' functionality of e-Blaster would have allowed Mr Smith to obtain the Claimant's various username and passwords, in addition to his email password mentioned

above, such as the password for his online banking. Indeed, the MPS have confirmed to Mr Hurst that Mr Smith obtained the password to Mr Hurst's blog. The blog was mysteriously destroyed in August 2006.

18. Mr Hurst was entirely unaware of Mr Smith's activities until 2011 when he was contacted by BBC Panorama who informed him of this. An investigation was then launched by the Metropolitan Police Service.
19. After the initial shock of being informed that he was a victim of computer hacking and e-mail interception, Mr Hurst became increasingly shocked and appalled as he began to discover the extent of the unlawful activity against him. He was horrified to see copies of actual emails which had been intercepted and genuinely feared for the safety of many of the people with whom he had been in contact.
20. Mr Hurst was and remains embarrassed that someone was able to access his computers in this manner and that the trust which others have placed in him has been jeopardised and degraded as a result.
21. Mr Hurst is also furious that his personal correspondence and private family information has been invaded in this way. He feels completely violated and humiliated. Likewise, his wife and daughter were most distressed to learn the facts of this matter. They are both particularly upset that their privacy has been invaded in this manner.
22. Upon learning of these activities in 2011, Mr Hurst promptly brought this civil action for misuse of private information. This claim was unable to proceed until the material held by the MPS was provided to Mr Hurst by way of non-party disclosure in late 2014. The delay was as a result of operational sensitivities of the MPS's criminal investigations "Operation Kalmyk" and "Operation Tuleta".
23. Mr Hurst will never know the full extent of the wrongdoing carried out against him, since only small fragments of material obtained or intercepted from his computers, e-mails and other accounts remain, recovered from the deleted slack space between files on a hard-drive seized by the Metropolitan Police in 2009. He has been informed by the MPS that they believe that e-Blaster was operational on his computers from May 2006 to October 2006. The computers he used during that period contained private and confidential material dating back to 1997. The MPS have been unable to inform him which of his account passwords were obtained and so it is possible that certain of his accounts remained compromised beyond those dates and up to the time he became aware of the wrongdoing in 2011.
24. I am here today to announce that News Group Newspapers now accepts that Mr Hurst's privacy has been invaded in the manner described. News Group Newspapers accepts vicarious liability for the circumstances which ultimately led to the wrongful acts of Mr Smith.

It accepts that it is thereby liable to Mr Hurst for breach of confidence and misuse of private information.

25. News Group Newspapers recognises that it will, unfortunately, be impossible to determine the full extent of the wrongdoing directed at Mr Hurst and his family, but it acknowledges that, at the very least, Mr Hurst's emails were intercepted routinely and intensively over a period of several months during 2006. News Group Newspapers accepts that the wrongdoing complained of should never have happened and it has agreed to give its sincerest apologies to Mr Hurst and his family. News Group Newspapers has agreed to undertake to the Court not to repeat the actions complained of. It has also agreed to pay a substantial amount in damages to Mr Hurst, as well as paying the costs he has incurred in relation to this matter, including his legal costs.

**Counsel for the Defendants**

(Anthony Hudson QC, Matrix Chambers)

26. My Lord, on behalf of the Defendant, News Group Newspapers Limited and News International Supply Company Limited, I confirm that News Group Newspapers does not disagree with the account given by my learned friend Mr Reed and accepts vicarious liability for the wrongful acts of computer interception by Mr Smith.
27. News Group Newspapers is here today through me to offer its sincerest and unreserved apologies to Mr Hurst, to Noreen Hurst and to Enya Hurst for the damage that this wrongdoing has caused to them. News Group Newspapers accepts that such activity happened, accepts that it should never have happened, and has undertaken to the Court that it will never happen again. Indeed, News Group Newspapers took steps several years ago to ensure that nothing like this could happen again. News Group Newspapers has also agreed to pay a substantial amount in damages to the Hurst family by way of compensation for these wrongful activities and to pay their legal costs.

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