



PRIVATE & CONFIDENTIAL

FAO: Mr Mark Lyford
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Our Ref: 1453.1

19 January 2022

NOT FOR PUBLICATION

By Email: (mark@lyfordoffice.com; mark@racingpigeoninternational.com) & Registered Post

Dear Sirs

OUR CLIENTS: MR GARY TOMLINSON & HIS FAMILY

We are instructed by Mr Gary Tomlinson ("GT") and his family.

We write in relation to the disgraceful, unacceptable and unlawful actions carried out by you, against our client, his son Robert Tomlinson ("RT") and his wife Mrs Annette Tomlinson ("AT").

SUMMARY

We specifically refer to your published posts (the "**Posts**") on your website www.asktommo.com (the "**Website**") as well as the videos (the "**Videos**") you have published on your YouTube channel: "*Racing Pigeon International*" (<https://www.youtube.com/channel/UCsdTYE51ToT7WZoXXP06cGA>) (the "**Channel**").

The contents of the Posts on the Website and the Channel are untrue and are defamatory of our client and his family.

Further, through your concerted actions of publishing the Posts on the Website and the Videos and the Email (as defined below), your actions amount to harassment of our client and his family and therefore are contrary to the provisions of the Protection from Harassment Act 1997 (the "**PHA 1997**").

Old Pump House 19 Hooper Street London E1 8BU
WWW.BRANDSMITHS.CO.UK

In the event you do not provide the relief set out at paragraph 43 below and agree to permanently cease harassing our client we will be instructed to apply to Her Majesty's High Court of England and Wales and seek a harassment injunction against you without further notice and / or bring proceedings in libel.

We request that you do not contact our clients or take steps to attempt to contact our clients on receipt of this letter. Your actions have caused, and continue to cause, our clients significant concern and distress. Should you wish to discuss this matter, please contact this Firm using the contact details set out in this letter's signature.

We strongly advise you to seek legal advice in relation to the contents of this letter.

BACKGROUND

1. Mr Gary Tomlinson ("**GT**") is the director and majority shareholder of "*Who Dares Wins (Alfreton) Limited*" ("**WDW**").
2. GT along with his wife AT and son RT are pigeon fanciers who operate a One Loft Race in the United Kingdom and Ireland (the "**OLR**") which was founded in 2013. Within the industry, GT is colloquially known as "*Tommo*".
3. WDW's OLR is a series of 5 hot spot races with a final long-distance race in Elgin. WDW's OLR is one of the biggest one loft races in the United Kingdom, offering substantial guaranteed prize money of £100,000 for its 2022 OLR.
4. Through the success of WDW and OLR, GT has developed a significant reputation within the pigeon racing industry and particularly within one loft racing.
5. You are a director of and majority shareholder of Racing Pigeon International Limited ("**RPI**").
6. On 3 September 2019 RPI and WDW agreed the full written terms of the agreement between the parties whereby RPI would assist WDW with the marketing and promotion of the OLR (the "**Terms**"). The commercial relationship between RPI and WDW ceased on 19 April 2020.
7. The Terms did not deal with the ownership of the intellectual property rights. Ownership of the intellectual property rights form the basis of an ongoing intellectual property dispute in Her Majesty's High Court, Intellectual Property Enterprise Court (the "**Dispute**").

YOUR ACTIONS

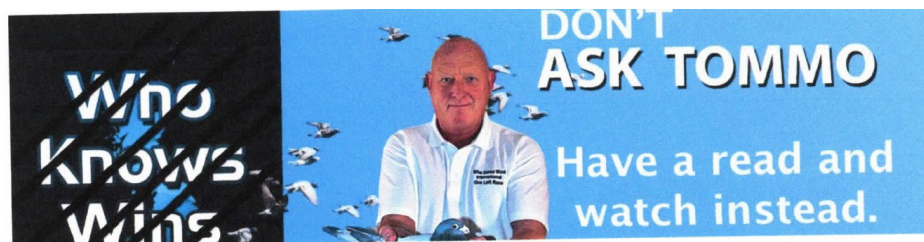
8. Since termination of the commercial relationship, as set out in paragraphs

10–28 below, you have embarked upon an online campaign of hate, to shock and disturb our client, using your reputation within the pigeon racing industry, your experience in marketing, the Website, and the Channel, to harass GT and to defame him to your followers. This behaviour is unacceptable.

9. We set out below a summary of the course of conduct adopted by you against our client.

THE WEBSITE

10. On 1 January 2020, you registered the Website. We enclose at Annex 1 a screenshot from a search of the WHOIS Database which illustrates the “Name Servers” are “NS1.LYFORD.NET” and “NS2.LYFORD.NET”. We also enclose at Annex 2, a screenshot of the “Contact” page of the Website which identifies you as the person to contact in respect of the Website. The Website’s intended purpose was as a question and answer forum for fans following the release of the DVD.
11. In April 2020, which pointedly coincides with the termination of the commercial relationship between RPI and WDW, it would be sufficient to say that you were angered by GT and as a result you changed the Website, driven by your anger you changed the Website to be used as a medium to defame as well to harass our client and his family.
12. The Website has the title: “*Don’t Ask Tommo – Some facts about [GT] and his [WDW] [OLR]*” and features the following header:



(the “Header”).

WDW’s website makes use of the following header:



13. The Header is an amended version of WDW's website's header, which you have amended by writing over the WDW logo so that it contains 6 diagonal strikethrough lines over it. You have also added in a photo of GT along with the following text: "*DON'T ASK TOMMO.... Have a read and watch instead*".

14. Further the first post on the Website states:

"Since all of this started happening in April 2020 and I have had many people contact me about this man, his family and their actions.

If you have been a victim of him then please feel free to contact me. It's time the truth behind this man came out and people stop being bullied by him once and for all" (the "**First Post**").

15. The *modus operandi* of the Website is clear, it is a medium whereby you can attack, oppress and denigrate WDW, GT and his family as well as their reputations online.

THE WEBSITE POSTS

16. From the 18 April 2020 to the end of December 2021 you published 35 Posts on your Website, all concerning GT, RT, AT and WDW.

17. We set out below the title of each of your 35 Posts along with the publishing date (where possible):

| | Date | Title / Post |
|----|----------------|---|
| 1 | Undated | "Truth is powerful, and it prevails." |
| 2 | Undated | "Since all of this started happening in April 2020..." |
| 3 | Undated | "So I'll let you make your own mind up about Gary "Tommo" Tomlinson |
| 4 | Undated | "CCTV footage of the three cowards..." / "Tommos Theory" [sic] |
| 5 | 18 April 2020 | "18 April 2020. My call with Gary Tomlinson.." [sic] (the " Fifth Post ") |
| 6 | Undated | "His Response (Which he removed 14 hours later)" |
| 7 | Undated | "My opinions on the Tomlinson Family" |
| 8 | Undated | "Independent Final Race Marking?" |
| 9 | Undated | "September Update" |
| 10 | Undated | "RPRA Hearing Update" |
| 11 | Undated | "How much do peanuts costs? WDW Auctions" |
| 12 | 9 October 2020 | "9 October 2020 – Robert Tomlinson pleads guilty to assault by beating." "Listen to the whole thing below." "9 th October 2020 – Rob Tomlinson is given a criminal conviction for assault by beating." |
| 13 | Undated | "Gary Tomlinson/ Who Dares Wins Race Auction 2020" "Tommo Bidding on and winning birds." "Smart Business... Running your own auction.." "Auto Bids" "Let's look at the 10 pigeons brought by Tommo" [sic] |

| | | |
|----|--------------------|--|
| 14 | 26 November 2020 | "Harassment?!? Tommo seems to think so.." "27 th November – Police Interview Update" "10th December 2020 – No Further Action" |
| 15 | 2 January 2021 | "RPRA Hearing Update" |
| 16 | Undated | "Who Dares Win International One Loft Race No Longer FCI Registered?"[sic] |
| 17 | Undated | "Hates, lies, friends, honesty, crooks, con men, blackmail and demands?" |
| 18 | Undated | "More wrong facts, lies and disguised intimidation from "Tommo" to others?" |
| 19 | Undated | "How many pulled out exactly?" |
| 20 | 7 April 2021 | "More Police Action? This is beyond a joke now." |
| 21 | 25 April 2021 | "The 2021 WDW race "lottery" odds just got bigger. Is Tommo for real?" |
| 22 | 30 April 2021 | "My call with Gary Tomlinson.." |
| 23 | Undated | "RPRA Appeal and Final Results. (A total whitewash and joke.)" |
| 24 | Undated | "Will the REAL Pierre Leclerc (AKA Tommo) Please stand up!?!" |
| 25 | 26 October 2021 | "One last try? I should have known better" |
| 26 | 30 October 2021 | "Hackers, bullshit and more lies." |
| 27 | 2 November 2021 | "Don't pay me £100's a year? Don't Enter My Race? You Have NO RIGHT to comment or have an opinion about me!" |
| 28 | 6-10 December 2021 | "Cease & Desist" |
| 29 | 10 December 2021 | "Oh The Irony... Tommo Deleting Posts Again.." |
| 30 | Undated | Video of GT |
| 31 | 14 December 2021 | "Cease & Desist Update." |
| 32 | 16 December 2021 | "Cease & Desist Update. 16 th December 2021" |
| 33 | 21 December 2021 | "My response to his solicitors letter below. 21 st December 2021" |
| 34 | 21 December 2021 | "Blackpool Hotels Full Of Refugees? Tommo thinks they maybe."[sic] |
| 35 | Undated | "Seeing as you are already here... Read and watch some more about "Tommo" and his family and what he and they are really like." |
| 36 | Undated | "SORRY" |

(the table above hereinafter referred to as the "Table").

18. As can be seen from the dates and titles of the Posts, they are sustained, obsessive and repeatedly attack GT, his family and their integrity. The Posts contain inflammatory language which serves to cause our client significant stress and harm. It is further distressing that you unscrupulously recorded and posted your telephone conversations with our client for the purposes of publishing on the Website (the Fifth Post).

19. Given the Posts are clearly targeted at GT, (given the direct references in the

titles of the Posts and the Headline to “Tommo”), each such posting amounts to a course of conduct of behaviour which is harassment of our client and therefore contrary to the provisions of the PHA 1997.

THE YOUTUBE CHANNEL

20. In addition to the Website, our client is also aware of your Channel. The Channel contains a number of videos concerning the pigeon racing industry which you promote and broadcast to 1.74k followers.

21. We enclose at Annex 3 a screenshot of your Channel.

YOUTUBE

22. In addition to the Posts, you have also posted the Videos on your Channel.

23. On 9 June 2020, you commenced a live stream on the Channel with the title:

“The real story about Gary & Robert Tomlinson” with the description: “The real story about Gary & Robert Tomlinson and Who Dares Wins Enough is Enough”.

24. The video has remained published on the Channel and can be accessed via the following link: <https://www.youtube.com/watch?v=Cz9tydfHiv0> (the “Video”). The video and has been viewed as at the date of writing 5,549 times. Exhibited at Annex 4 is a screenshot of the Video.

25. In the Video you once again pursue a hate-fuelled monologue which seeks to attack GT and RT to your followers. The purpose of the Video is patently clear, it is a further medium by which you seek to cause alarm and distress to our client.

EMAILS TO OUR CLIENT

26. In addition to the Video and the Posts you have also sent an email to our client on 26 May 2020² which contained the following threatening and distressing language:

“Fortunately this is your lucky day Gary. If it were up to me and I only had to think of myself things would be different. On my own I would pursue you to make right and no amount of threats, intimidation or bad mouthing would make me give a flying fuck about what you or your family do. I would fight fire with fire no matter what”

“So why is it your lucky day? Well lucky for you I don’t just have me to think

about...

"If anything like that ever happens again and puts my family property or livestock or I in danger again people privately know my theories and will be ready to act if need be".

"I know about your past enough you could, it hasn't happened. Its my nature to fight with fire."

(the "Email").

27. The Email is a clear threat to GT and his family, purposefully phrased to invoke fear and distress.

28. We enclose a copy of the Email at Annex 5.

HARASSMENT

29. The Posts, Videos and Email (together "**Your Online Activities**") are causing considerable alarm and distress to our client, are plainly targeted at him, and each such action amounts to a course of conduct of behaviour which is harassment of our client. Such actions are contrary to the provisions of the PHA 1997.

30. We set out the relevant provisions of the PHA 1997 below:

Section 1(1) of the PHA 1997 states:

A person must not pursue a course of conduct –

(a) which amounts to the harassment of another; and

(b) which he knows or ought to know amounts to the harassment of the other.

Section 2(1) of the PHA 1997 states:

A person who pursues a course of conduct in breach of Section 1 is guilty of an offence.

31. Your Online Activities have had a significant impact upon GT and AT. Since the commencement of Your Online Activities, you have caused GT psychological stress which has resulted in him being admitted to hospital on three separate occasions from 25 October 2021 onwards. This has impacted upon GT's ability to fulfil his work duties.

32. We point out that although Your Online Activities are aimed squarely at GT and on occasion RT, you will also be liable for the physiological and psychological impact upon AT (see *Levi and anr v Bates and others [2015] EWCA Civ 206*). As a result of the stress caused by Your Online Actions, AT has:
- a. lost almost three stone in weight;
 - b. has become dependent upon anti-depressants prescribed by her GP; and
 - c. is now almost completely house-bound, afraid to leave the house.
33. Your Online Activities amount to a breach of the PHA 1997. Specifically, your actions are in breach of Section 1(1)(a) and (b) of the PHA1997. A person in breach of Section 1 of the PHA 1997 is guilty of an offence and liable on summary conviction to imprisonment. Additionally, an individual in breach of Section 1 of the PHA 1997 may be the subject of a claim in civil proceedings by the person who is or may be the victim in the course of conduct in question.
34. To the extent that you had a grievance in respect of the background to the Dispute, or otherwise, the appropriate place to seek redress would be, is, and continues to be through the English courts. Whilst you might be frustrated, it is a completely inappropriate course of action to undertake a vitriolic tirade of harassment of our client in the manner that you have done. Your conduct is oppressive and wholly unacceptable.

DEFAMATION

35. We further consider that Your Online Actions amount to libel of GT and RT. Pursuant to s1(1) of the Defamation Act 2013, a statement is defamatory if its publication caused or is likely to cause serious harm to a person's reputation
36. The Posts and Videos, contain commentary which would have been understood by readers to mean, in their natural and ordinary meaning, that:
- a. GT and his family or their connections entered your property and firebombed your car (see Post 4 and 22 in the Table);
 - b. RT is a convicted criminal (see Post 12 in the Table);
 - c. GT has retained 7 pigeons which do not belong to him (see Post 13, 14, 15 and 23 in the Table)
 - d. GT has been harassing other third-party companies who run OLRs, who you have worked with (see Post 8, 28 and 29 in the Table);
 - e. GT is a bully and has attempted to intimidate you and others close to you (see Post 2, 3, 9, 18 and 27 in the Table); and
 - f. GT's auctions for pigeons are dishonest, whereby GT manipulates the bidding process to ensure he wins promising pigeons (see Post 11, 19, 21, 23 and 24 in the Table)

(together the “**Allegations**”).

37. The Allegations are entirely false and given their seriousness have caused significant harm to GT’s and RT’s reputation. Given that you are well known within the pigeon racing community and operate an active YouTube channel, the Allegations will have had substantial reach.
38. The level of hurt and distress the Allegations have caused to our client, a well-respected pigeon fancier is indescribable. GT is entitled to full vindication in the eyes of all those to whom you have published your slurs.
39. Our client will not hesitate to commence proceedings against you if this matter cannot be resolved satisfactorily and quickly. If our clients are successful in their claims, as outlined above, they are likely to be awarded significant damages.
40. The sum by way of damages our clients will seek will be influenced by the promptness and adequacy of the steps you take to mitigate the harm caused by the Posts and the Videos.

ACTION REQUIRED

41. You are acting outside of the law. Your actions are causing our client along with his wife AT, serious psychological harm. Our client is not prepared to allow you to continue to harass him in this way. Your Online Activities cannot continue.
42. In the event you do not comply with the terms set out below at paragraph 43 by 4pm on 26 January 2022 we will be instructed to apply to the Court without further notice to you.
43. Whilst we acknowledge that the Website is no longer accessible, in order to end this matter without any recourse to litigation our clients require you to confirm, in writing that you will:
 - a. immediately cease all contact with him by all and any means, without limitation, via telephone, the Website, electronic transmission, mutual friends, postal services or in person;
 - b. immediately remove the Videos from the Channel;
 - c. pay our clients damages (included aggravated damages) for the significant harm done to their reputations;

- d. publish an apology on the Channel, on terms to be agreed, apologising for the Allegations;
- e. agree to stop harassing GT and his family; and
- f. indemnify GT in respect of his legal costs.

44. To be clear, in the event that our client is forced to apply to the Court for an injunction our client will seek to obtain:

- a. an award for damages for the anxiety caused by your actions and financial loss resulting from the harassment;
- b. an injunction restraining you from pursuing any conduct which amounts to harassment; and
- c. GT's legal costs.

We await receiving written confirmation that you will provide the relief as set out at paragraph 43 by **4pm on 26 January 2022.**

In the meantime, our client's rights and remedies remain entirely reserved.

Yours faithfully



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Enc.