

McCUE JURY & PARTNERS

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Date: 10 May 2022

Our Ref: BEL.00548.PRI.COR.SRA.

By email only [report@sra.org.uk]

Dear SRA,

RE: Reporting SLAPP in the case of Yevgeniy Prigozhin v Eliot Higgins

Context

1. The purpose of this letter is to comply with our professional obligations under the SRA Code of Conduct (the **SRA Code**), especially considering the recent guidance titled '*Conduct in disputes*' published on 4 March 2022 (the **SRA Guidance**)¹, by formally reporting what appears to be an obvious case of strategic litigation against public participation (**SLAPP**).
2. SLAPP is defined by the UK Government as "*an abuse of the legal process, where the primary objective is to harass, intimidate and financially and psychologically exhaust one's opponent via improper means*"².
3. The SRA Guidance highlights, with reference to SLAPPs, the fact that solicitors and their firms must, to "*ensure compliance [with the SRA Code], always be vigilant in scrutinising [their] own and others' conduct in disputes [they] are involved in*" (emphasis added) and report such where it appears to be in breach of the SRA Code.

The Proceedings

4. The SLAPP litigation in question regards the defamation proceedings (the **Proceedings**) in the High Court of England & Wales initially brought by *Discreet Law LLP (Discreet Law)* on behalf of Yevgeniy PRIGOZHIN a Russian Oligarch believed to have close ties to President Putin and widely described as 'Putin's Chef', against Eliot HIGGINS, founder of *Bellingcat*, the award-winning investigations and reporting organisation.

¹ <https://www.sra.org.uk/solicitors/guidance/conduct-disputes/>

² <https://www.gov.uk/government/consultations/strategic-lawsuits-against-public-participation-slapps>

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5. We, *McCue Jury & Partners LLP*, represent the HIGGINS, the defendant.
6. The proceedings concerned several tweets from the HIGGINS' personal *Twitter* account (the **Tweets**) which link to articles published on respected news websites including the *Bellingcat* website, *CNN* and *Der Spiegel* (the **Articles**). It was claimed by PRIGOZHIN that the Tweets and the Articles they linked to contained defamatory allegations that had caused, or were likely to cause, "serious harm to [his] reputation for the purposes of s.1 of the Defamation Act 2013". No evidence was given as to what harm was suffered by PRIGOZHIN or his reputation because of the Tweets.
7. It is worth noting that the Tweets did not contain any information or allegations that had not been widely reported on in the international media including in the Articles.
8. However, the Proceedings were issued against HIGGINS in his personal capacity. Of course, HIGGINS has: (i) significantly less media reach than the relevant media outlets (for example, *CNN* has 55 million *Twitter* followers while, at the time of the Tweets, HIGGINS had less than 145,000); and (ii) significantly fewer financial resources available than said media outlets to pay any damages award that may be awarded. It is therefore indisputable that HIGGINS would not have been the most appropriate defendant in this claim if it had been genuinely intended to protect PRIGOZHIN's reputation and/or to obtain adequate compensation for damage to such.
9. As such it is apparent that these Proceedings were designed precisely to cause the maximum personal distress to HIGGINS and to deter him from publishing further content which legitimately criticises individuals such as PRIGOZHIN. As such, the Proceedings seem to be a textbook example of SLAPP and are, as such actions are defined in the SRA Guidance, a "misuse of the legal system...in order to discourage public criticism or action".

Hallmarks of SLAPP

10. We respectfully contend that it cannot reasonably be believed, including by *Discreet Law* when they issued and served the Proceedings, that the Tweets caused any harm to PRIGOZHIN's reputation.
11. PRIGOZHIN is subject to numerous international sanctions (including from the UK, US, and EU) due to his alleged illegal activities including interfering in foreign elections, acting in defiance of other international sanctions, and funding the *Wagner Group* (the Russian mercenary paramilitary group who have committed numerous war crimes and human rights violations in conflicts including during the current war in Ukraine).
12. All these sanctions were in place and publicised before the Proceedings were issued. It is therefore, at best, fanciful to suggest that the Tweets from an individual reporter (which were almost entirely focused on the same activities for which he was sanctioned) had any significant effect on PRIGOZHIN's reputation.
13. We understand that PRIGOZHIN is also bringing defamation proceedings against *Bellingcat* in Russia on materially similar grounds as those in the Proceedings. While we are not involved in this Russian case (and nor, do we believe, are *Discreet Law*) we note this fact to highlight that multiple defamation cases are being brought in separate jurisdictions due to the same or similar

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actions by the defendant (or related defendants), which is a classic sign of a SLAPP campaign designed to exhaust a defendant's resources and energies.

Discreet Law's Actions

14. We strongly believe that *Discreet Law* have acted in a manner that amounts to a clear breach of the SRA Code and which has resulted in significant financial hardship to HIGGINS.
15. *Discreet Law* were instructed by PRIGOZHIN to bring these Proceedings from at least August 2021 and served this unmeritorious SLAPP suit in December 2021, despite their client being subject to multiple international sanctions (as detailed above). Further, *Discreet Law* continued to take an active role in the Proceedings including engaging in inter-parties' correspondence and making their own court applications as part of the general case management procedure.
16. Due, in part, to the sanctions (as well as the fact that PRIGOZHIN is domiciled in Russia) *Discreet Law* agreed that security for costs should be provided in the Proceedings and so made an application for a licence for such to be provided from the *Office for Financial Sanctions Implementation* of HM Treasury in, as we understand, late January 2022 (the **Security for Costs Application**).
17. However, despite seemingly having had no issues with doing so prior to this point, *Discreet Law* successfully applied to come off the record and stop representing PRIGOZHIN in the Proceedings at a hearing dated 26 March 2022 (held in private, at the application of *Discreet Law* and in opposition to the general principles of open justice).
18. No alternative legal representatives were appointed and yet the Proceedings remained active (and there are still material issues to be resolved such as costs). This, understandably, has created significant financial and emotional distress for HIGGINS especially as the Security for Costs Application has not, to our knowledge, been determined. We have asked *Discreet Law* on multiple occasions, including most recently on 5 and 6 April 2022, for a status update on this application but have received no reply.
19. Without security for costs being provided, regardless of any adverse costs order made in HIGGINS' favour in such a unmeritorious claim brought against him, it is very likely that no costs will be recoverable from PRIGOZHIN. This is a plainly unjust situation; therefore, it is wholly unreasonable that *Discreet Law* have repeatedly failed to provide any information, which they are free to give, and which could provide comfort and/or assistance to HIGGINS against whom they issued the Proceedings that they have now abandoned.

Appropriate Action

20. Any action that may be taken in relation to *Discreet Law's* actions is of course a matter solely to be decided by the SRA.
21. However, we believe that we are professionally obligated to formally report what we believe to be a clear breach by *Discreet Law* of the SRA Code for their issuance of a SLAPP and their subsequent actions which have caused undue and unnecessary hardship on an award-winning journalist working in the public interest.

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22. Further, it appears that *Discreet Law's* behaviour likely amounts to a breach of the SRA Principles³. Notably, the Principles require solicitors to act "*with integrity*" (Principle 5) and "*in a way that upholds the constitutional principle of the rule of law and the proper administration of justice*" (Principle 1). By assisting a claimant whose intent seems to be solely to censor independent investigations and stifle legitimate public debate, *Discreet Law's* behaviour appears to fall short of the SRA requirements.
23. We also refer you to *Discreet Law's* refusal to engage with our reasonable questions regarding the outstanding Security for Costs Application which, of course, has a material impact on client.
24. Given PRIGOZHIN's widely reported role in the current war in Ukraine behalf of Russia, and HIGGIN's and *Bellingcat's* efforts to, among other things, counter Russian disinformation, it is especially galling that this SLAPP suit was allowed to be brought in this context.
25. We remain at your disposal to provide any further assistance or clarification that you may require to investigate this further.

Yours faithfully

McCue Jury & Partners LLP

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³<https://www.sra.org.uk/solicitors/standards-regulations/principles/>

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