



# Claim Form

**DEFENDANT'S COPY**

You may be able to issue your claim online which may save time and money. Go to [www.moneyclaim.gov.uk](http://www.moneyclaim.gov.uk) to find out more.

In the	
Fee Account no.	
Help with Fees - Ref no. (if applicable)	HWF - [ ] - [ ]
Claim no.	HQ17 x 00693
Issue date	27 FEB 2017

Claimant(s) name(s) and address(es) including postcode

Aidan Chad Earley  
Mitchley, Traps Lane  
New Malden  
KT3 4RU



Defendant(s) name and address(es) including postcode

Thomas Winnifrith

Brief details of claim

See Particulars of Claim Annexed hereto

This is a Libel Action in respect of a number of defamatory statements made by the Defendant about the Claimant. The Claimant seeks:

- 1) Damages for Libel comprising words and sounds broadcast and published by the Defendant about the Claimant both on ShareProphets.com (on 17th December 2016 and 24th January 2017) and on and in a Publication entitled "The Weekend Tomograph" on 11th January 2017
- 2) A Declaration and Consequential Orders as particularised in the Particulars of Claim:

Value  
Not exceeding £50,000

**Assigned to Master** Thornell

You must indicate your preferred County Court Hearing Centre for hearings here (see notes for guidance)

ROYAL COURTS OF JUSTICE (HIGH COURT, QUEEN'S BENCH DIVISION) (CENTRAL LONDON)

Defendant's name and address for service including postcode

Thomas Winnifrith

	£
Amount claimed	50,000.00
Court fee	2,500
Legal representative's costs	
<b>Total amount</b>	

For further details of the courts [www.gov.uk/find-court-tribunal](http://www.gov.uk/find-court-tribunal).

When corresponding with the Court, please address forms or letters to the Manager and always quote the claim number.

Claim No.

Does, or will, your claim include any issues under the Human Rights Act 1998?  Yes  No

Particulars of Claim (attached) ~~(to follow)~~

**Statement of Truth**

\*(I believe) ~~(The Claimant believes)~~ that the facts stated in these particulars of claim are true.

\* I am duly authorised by the claimant to sign this statement

Full name Aidan Chad Earley

Name of claimant's legal representative's firm \_\_\_\_\_

signed 

position or office held \_\_\_\_\_

\*(Claimant) ~~(Litigation friend)~~

(Claimant's legal representative)

(if signing on behalf of firm or company)

*\*delete as appropriate*

Claimant's or claimant's legal representative's address to which documents or payments should be sent if different from overleaf including (if appropriate) details of DX, fax or e-mail.

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

**Claim No.**

**In the matter of the Defamation Act 1996 as amended by the Defamation Act 2013**

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

**AIDAN CHAD EARLEY**

**Claimant**

**-and-**

**THOMAS WINNIFRITH**

**Defendant**



---

**PARTICULARS OF CLAIM**

---

**THE PARTIES**

***The Claimant***

1. The Claimant is a corporate intermediary/ deal broker, whose work involves introducing companies and persons to each other for the purpose of completing business deals in the United Kingdom. The Claimant has worked with a number of UK Companies in the past including Worthington Group PLC. The Claimant is not a public figure, nor does he hold himself out as being the same. The Claimant has a reputation within the United Kingdom.
2. The Claimant has a spent conviction for an Insolvency Offence under section 361 (1) (a) (failing to keep proper accounting records) of the Insolvency Act 1986. In 1992 the Claimant pleaded guilty to failing to keep proper accounting records/failing to account. Dishonesty and/or fraud were not constituent elements of the offence.

Although the Court was satisfied during those proceedings that the failure to keep records was an honest one, it was not satisfied that the Claimant's omission was excusable on the facts (as required by section 361(1)(2)(a) of the Act). This offence no longer exists, and the conviction is now spent by operation of the Rehabilitation of Offenders Act 1974 given the elapse of 25 years. The Claimant has never been convicted of any offence which involved a finding of dishonesty, theft or fraud.

### ***The Defendant***

3. The Defendant runs a website called ShareProphets.com ("ShareProphets"), which describes itself as "*the one stop source for free breaking news, expert analysis, and videos on AIM and LSE listed shares*". "AIM" refers to the Alternative Investment Market of the London Stock Exchange (a secondary market). ShareProphets states that it is "*keen to maintain high standards, an editorial committee*" and "*will accept applications from new writers only if they can demonstrate ability and integrity and years of market experience*". The articles published on ShareProphets are therefore presented on the basis that they are expert in nature, have undergone the scrutiny of an editorial committee and been authored by those with integrity and years of market experience.
4. The Defendant is a journalist, and publishes articles in that capacity on the ShareProphets website. The articles that the Defendant publishes are therefore presented to readers as being of an expert nature. Further, the Defendant describes himself as "*the Sheriff of AIM*" and has posted a picture of himself wearing a sheriff hat and costume. The Defendant has also stated on occasion that he intends to place the "*Curse of ShareProphets*" upon the Claimant and others.
5. ShareProphets is free to view on the internet. The website received *circa* 150,000 views in December 2016 and *circa* 110,000 views in January 2017. The website engages in commercial advertising. ShareProphets advertising and marketing is handled by ShareProphets Ltd. The sole shareholder of ShareProphets Ltd is the Eden Moor Trust based in Gibraltar, in which the Claimant believes the Defendant has an interest. The "Advertise with us" section of the website states:

*“To reach a well-heeled, well-informed audience, ShareProphets Ltd can offer banner advertising, solus emails, and bespoke products. Send an email to advertising@shareprophets.com if you would like more information.”*

Those viewing the website predominantly do so from the United Kingdom. The Defendant also publishes an e-mail bulletin called “*the Weekly Tomograph*” (under the auspices of ShareProphets), which is circulated widely by way of a mailing list.

6. The Claimant and Defendant have both been parties to litigation in the past. In 2015 the Claimant brought proceedings for an injunction against the Defendant with respect to the publication of hacked confidential e-mails by the Defendant on his website (“the 2015 litigation”). The Claimant was granted an *ex parte* injunction against the Defendant to restrain publication of confidential e-mails stolen from the Claimant by a third party. Those proceedings were later compromised by way of:
  - a. A consent order, and;
  - b. A separate agreement between the parties which included a promise by the Defendant to refrain from publishing articles about the Claimant.
7. During the compromise, the Defendant agreed that he would no longer “go after” the Claimant “personally” and would cease publishing articles about the Claimant “being a criminal or fraudster”. In the premises the Claimant and Defendant had the following agreement (“the Agreement” hereafter):
  - a. As part of the settlement of the 2015 litigation, the Defendant promised on 15 March 2015 that *inter alia* he would no longer publish articles which described the Claimant as a “criminal” or a “fraudster”,
  - b. This agreement was in consideration of the Claimant’s promise to compromise the proceedings and to give a talk at the Defendant’s “investor show” organised to take place at the Queen Elizabeth II hall on 18 April 2015.
  - c. The Claimant performed his obligations under the agreement, in that he discontinued the 2015 proceedings by consent and further attended and gave a talk at the “investor show” on 18 April 2015.
8. Over a year after the Claimant gave the talk on 18 April 2015, the Defendant published the video on his website under the heading “*Video of convicted criminal*

*Aidan Earley on Faith & Money*” so as to subject the Claimant to ridicule. The Claimant was ridiculed by a number of persons in the “comments” section, in that he was called “excruciating”, a “rambling madman” and “a few nuts short of a squirrels lunch”. Underneath the video, the Defendant wrote the words “aidan earley / criminal / fraud / scam”. The Defendant had promised that he would not broadcast a video of the Claimant’s talk.

9. The Defendant knew, or became aware, that the Claimant had a spent conviction under the Insolvency Act in 2015. In any event the Defendant knew in March 2015 (during the 2015 litigation itself) and on 6 August 2015 that the Claimant had a spent conviction, and that the offence was not one of dishonesty, theft or fraud, but was for failing to keep adequate records. The Defendant published a number of untrue and defamatory statements in a series of aggressive and hostile articles about the Claimant in December 2016 and January 2017.
10. The Defendant has variously published articles which describe/refer to the Claimant as a “fraudster”, a “liar”, “the patron saint of fraudsters”, a “bitch”, a “bastard” and a “dirty little criminal”. The Defendant has also sold T-Shirts (at £25.00 per T-Shirt) emblazoned with “*See ya in Court bitchez [sic]*” referring to the disputes he has had with the Claimant over the publications.
11. The Defendant has therefore acted in breach of the agreement not to publish articles about the Claimant which describe him as a criminal or a fraudster. In the premises the Defendant has made libellous statements and others about the Claimant such as to entitle the Claimant to relief.

## **CLAIMS**

### **LIBEL**

#### ***The Publications the subject of the Claim***

12. Within the 12 months immediately preceding the commencement of these proceedings, the Defendant has caused (or has caused or permitted to be caused) the

publication and broadcast of words and sounds concerning the Claimant .The publications the subject of this Claim are:

- a. A website <http://www.shareprophets.com> (“the Website” hereafter)
- b. A podcast on the Website described by the Defendant as a “Bearcast” (“the Bearcast”). Insofar as is necessary, the Claimant will refer to a digital recording of the item for its full effect and meaning.
- c. An publication distributed by e-mail called the “Weekend Tomograph” (“the Tomograph”)

13. It is submitted that the Defendant published libellous statements concerning the Claimant in that:

- a. The Defendant stated that the Claimant had spent time in “prison for criminal fraud” (Ground A)
- b. The Defendant stated that the Claimant had spent time in prison for “corporate theft” (Ground B)

#### **GROUND A**

14. The Defendant published a libellous statement about the Claimant on the internet in that:

#### PARTICULARS OF PUBLICATION

- a. The Defendant authors a regular news “bulletin” entitled “The Weekend Tomograph”;
- b. The Defendant distributes “The Weekend Tomograph” to his readers by way of circulation by e-mail;
- c. The publication in question concerns the edition of “The Weekend Tomograph” published and circulated on 11 January 2017 to his readers by e-mail;
- d. The publication in the “Weekend Tomograph” dated 11 January 2017 stated that the Claimant had been “sent to Jail in 1992 for fraud”;
- e. Further, the Defendant produces podcasts which he describes as “Bearcasts”
- f. The Bearcasts are audio files which can be played on the Website;

- g. On 24 January 2017 the Defendant uploaded an audio file (a Bearcast) to which visitors to the website could listen, entitled “*Tom Winnifrith Bearcast: Winnileaks vindicated in spades today. whatever criminal Aidan says [sic]*”;
  - h. During the podcast/audio recording, at time-stamp 0:21 (21 seconds into the recording) states that the Claimant has “spent time in prison for criminal fraud”.
  - i. The website had *circa* 110,000 visits during January 2017. The specific page upon which the Bearcast was published received 7 comments from readers. The section upon which the Bearcast is published is expressed to be authored by the Defendant in that it says “By Tom Winnifrith”.
15. The words complained of are that the Claimant “*was sent to Jail in 1992 for fraud*” and that the Claimant has “*spent time in prison for criminal fraud*”.
16. Although the Claimant is aware of the numbers of visitors to the website in December 2016 and January 2017, the Claimant is at present unable to plead the precise number of persons reading each of the individual publications/broadcast (e.g. web-page or email circular) themselves. The Claimant will plead further following disclosure and/or the provision by the Defendant of further information relevant to the issue, which will be readily available to it. Pending the provision of such disclosure/information, the Claimant relies upon the inference that because the website is very popular (attracting *circa* 110,000-150,000 viewers), and because the articles themselves have been commented upon by readers, that the publications mentioned above at paragraphs 12 (a)-(c) will have been substantial.
17. The Claimant avers that these publications are defamatory in that:

#### PARTICULARS OF DEFAMATION

- a. The Claimant was not sent to Jail in 1992 for fraud, nor has he ever been sent to prison for, nor convicted of any criminal offence involving dishonesty or fraud.
- b. The Claimant has never been convicted of a criminal offence of which a constituent element is a finding of dishonesty or fraud.



- c. The natural meaning of those words complained of was that the Claimant had been convicted of the specific criminal offence of fraud, a dishonesty offence, and that the Claimant was sentenced to a term of imprisonment for that offence.
  - d. To the extent that the words of complained of also have an innuendo meaning, it is submitted that the innuendo is that the Defendant was convicted by a Court of an offence which involved a finding of fraud or dishonesty. To the extent necessary, the Claimant relies upon the following facts extraneous to the words complained of:
    - i. The Defendant has stated that the Claimant was a “convicted criminal” and a “fraudster” on numerous occasions on his website.
    - ii. The Defendant has called the Claimant “the Patron Saint of Fraudsters” on the Website.
    - iii. The Defendant has called the Claimant a “dirty little criminal” on the Website.
    - iv. The facts mentioned above at paragraph 3 – 12 of these Particulars of Claim.
18. At the time that the words complained of were published the Defendant knew that the Claimant had not been sent to jail for fraud in 1992 or at all. Having been provided with detailed particulars of the Claimant’s spent conviction under the Insolvency Act 1986, the Defendant had no reasonable grounds for believing that the Claimant had been sent to jail for fraud in 1992 or at all. The Defendant therefore lied about the Claimant, and knew this statement to be a lie.
19. The publication was motivated by malice, in that:

#### PARTICULARS

- a. The Defendant has repeatedly published offensive and abusive articles about the Claimant, including by referring to him as:
  - v. A “bitch”
  - vi. A “bastard”
  - vii. A “fraudster”

- viii. A “felon”
  - ix. A “serial liar”
  - x. A “dirty little criminal”
  - xi. “The patron saint of fraudsters”
- b. In 2015, the Defendant agreed with the Claimant that he would no longer “go after him personally” nor publish articles about the Claimant. The Defendant broke this agreement and published defamatory statements about the Claimant in any event.
  - c. Prior to the publication of the words complained of, the Defendant invited the Claimant to speak at his investor show with the express and sole purpose of later publishing the video of the Claimant’s talk so as to subject him to ridicule. The Claimant had only agreed to give the talk on the basis that the Defendant had promised to stop publishing articles about him. The Defendant had promised the Claimant he would not broadcast a video of the talk.
  - d. The Defendant knew that the Claimant had not been sent to prison for fraud or theft at the time he published the words complained of in that he was given detailed particulars of the 1992 conviction in March 2015 (during the 2015 litigation) and on 6 August 2015. Further, the Defendant had no reasonable grounds for believing that the Claimant had been sent to prison for those offences at the time he published the words complained of.
  - e. It is the Claimant’s case that each of the statements made (the words complained of) were incorporated within the publication and/or broadcast for a dominant improper motive, namely to bolster a negative campaign against the Claimant and his reputation.

20. In the premises, the publication of the words complained of has, and is likely to cause, serious harm to the reputation of the Claimant, in that:

#### PARTICULARS OF SERIOUS HARM

- a. In circumstances where the Claimant has not been convicted of criminal fraud, nor convicted of any criminal offence involving dishonesty or fraud, the statement is *prima facie* harmful in that it would lead a person reading the words complained of to believe that the Claimant had in fact been convicted of

- criminal fraud, or that the Claimant had been convicted of an offence which involved a finding of dishonesty or fraud.
- b. By reason of the statements made on the Website mentioned at paragraph 3 of these particulars, a person reading the publications mentioned above would believe that they had been scrutinised and approved by an editorial committee. This fact would lead readers to place more weight upon the statement made than may otherwise be the case. Further, this fact would make a person more likely to believe the truth of the contents of the statement.
  - c. By reason of the statements made on the Website mentioned in paragraph 3 of these particulars, a person reading the publications mentioned above would believe that they have been written by an individual with integrity and years of market experience. This fact would lead readers to place more weight on the statement than would otherwise be the case. Further, this fact would make a person more likely to believe the truth of the contents of the statement.
  - d. The words complained of would lead a person reading them to believe that the Claimant was found by a Court to be dishonest.
  - e. The words complained of would lead a person reading them to believe that the Claimant was found by a Court to be a fraudster.
  - f. The Claimant makes a living by building trust with Clients and performing consulting services for them in the context of financial services. The Claimant has lost business and will lose further business as a result of the statements made.
  - g. By reason of the foregoing the words complained of have and are likely to cause serious harm to the reputation of the Claimant.

## **GROUND B**

21. The Defendant published a libellous statement about the Claimant on the internet in that:

### PARTICULARS OF PUBLICATION

- a. On 17 December 2016 the defendant published an article on the ShareProphets website. The Article was entitled "*Worthington's Aiden Earley accuses Tom*

*Winnifrith of insurance fraud over office fire, threatens numerous legal actions, BB Morons jubilant”.*

- b. That article stated that the Claimant had been “sent to prison for corporate theft”.
- c. The Website had *circa* 150,000 views during the month in which the statement was published. The specific webpage upon which the statement was made was commented upon 6 times by readers. The section upon which the article is published is expressed to be authored by the Defendant in that says “By Tom Winnifrith”.

22. Paragraph 16 of these particulars is repeated. The words complained of are that the Claimant had been “sent to prison for corporate theft”. The publication on ShareProphets.com on 17 December 2016 was defamatory in that:

#### PARTICULARS OF DEFAMATION

- a. The Claimant has never been convicted of theft.
- b. The Claimant has never been convicted of an offence where theft or dishonesty was a constituent element of that offence.
- c. The natural meaning of those words complained of was that the Claimant had been convicted of the specific criminal offence of theft, a dishonesty offence.
- d. To the extent that the words of complained of also have an innuendo meaning, it is submitted that the innuendo is that the Defendant was convicted by a Court of the specific criminal offence of theft, or otherwise of an offence involving a finding of theft, fraud or dishonesty. To the extent necessary, the Claimant relies upon the following facts extraneous to the words complained of:
  - i. The Defendant has stated that the Claimant was a “convicted criminal” and a “fraudster” on numerous occasions on the website.
  - ii. The Defendant has called the Claimant “the Patron Saint of Fraudsters” on the Website.
  - iii. The Defendant has called the Claimant a “dirty little criminal” on the Website.

- iv. The facts mentioned above at paragraph 3 – 13 of these Particulars of Claim.
23. In the premises, the publication of the words complained of has, and is likely to cause, serious harm to the reputation of the Claimant, in that:

PARTICULARS OF SERIOUS HARM

- a. In circumstances where the Claimant has not been convicted of theft, imprisoned for theft, nor convicted of any criminal offence involving dishonesty, fraud or theft, the statement is *prima facie* harmful in that it would lead a person reading the words complained of to believe that the Claimant had in fact been convicted of criminal theft, or that the Claimant had been convicted of an offence which involved a finding of dishonesty, theft or fraud.
- b. The words complained of would lead a person reading them to believe that the Claimant was found by a Court to be a thief.
- c. The words complained of would lead a person reading them to believe that the Claimant was found by a Court to be dishonest.
- d. By reason of the statements made on the Website mentioned at paragraph 3 of these particulars, a person reading the publications mentioned above would believe that they had been scrutinised and approved by an editorial committee. This fact would lead readers to place more weight upon the statement made than would otherwise be the case. Further, this fact would make a person more likely to believe the truth of the contents of the statement.
- e. By reason of the statements made on the Website mentioned in paragraph 3 of these particulars, a person reading the publications mentioned above would believe that they have been written by an individual with integrity and years of market experience. This fact would lead readers to place more weight on the statement than would otherwise be the case. Further, this fact would make a person more likely to believe the truth of the contents of the statement.
- f. The Claimant makes a living by building trust with Clients and performing consulting services for them in the context of financial services. The Claimant has lost business, and will lose further business as a result of the statements made.

- g. By reason of the foregoing the words complained of are likely to cause serious harm to the reputation of the Claimant.
24. At the time that the words complained of were published the Defendant knew that the Claimant had not been sent to jail for theft (corporate or otherwise). Having twice been provided with detailed particulars of the Claimant's spent conviction under the Insolvency Act 1986, the Defendant had no reasonable grounds for believing that the Claimant had been sent to jail for theft (corporate or otherwise). The Defendant therefore lied about the Claimant, and knew this statement to be a lie
25. The publication was motivated by malice. Paragraph 18 of these Particulars is repeated.
26. Unless restrained the Defendant will further publish the words complained of.
27. By reason of the foregoing, the Claimant has and is likely to suffer loss and damage to his reputation. By reason of the foregoing the Claimant has suffered stress, anxiety and has suffered injury to his feelings. In respect of the libels particularised above, the Claimant claims the following relief:
- a. General Damages not exceeding £50,000
  - b. A declaration that the statements made were false and defamatory of the Claimant;
  - c. An Order that the Defendant cause an apology to be published
  - d. In the event that judgment is awarded for the Claimant, an order that a summary of the judgment is published by the Defendant;
  - e. An Order that the Defendant remove the words complained of from the Website;
  - f. An Order restraining the Defendant whether by himself, servants or agents from publishing or further publishing the matter complained of.

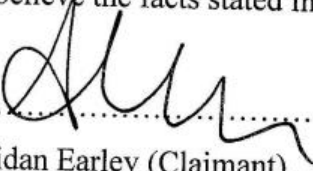
AND THE CLAIMANT CLAIMS:

- a) Damages not exceeding £50,000
- b) A Declaration;

- c) An Order that the Defendant publish a summary of the Court's judgment;
- d) An Order that the Defendant publish/ cause an apology to be published;
- e) An Order that the Defendant remove the words complained of from the Website;
- f) An Order restraining the Defendant from publishing the matter complained of;

STATEMENT OF TRUTH

I believe the facts stated in these Particulars of Claim to be true.

  
.....

Aidan Earley (Claimant)