

# OPUS 2

## INTERNATIONAL

(1)Dr Helle Poulsen (2 )Mr Barry Weller v (1)Specsavers Optical Grp. Ltd (2)Bognor Regis Visionplus Ltd (3)Bognor Regis Specsavers Ltd v (1)Shakila Parham (2)John Parham v (1) Specsavers Optical Grp. Ltd (2)Uckfield Specsavers Ltd

Day 11

December 16, 2013

Opus 2 International - Official Court Reporters

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1 Monday, 16 December 2013  
2 (10.00 am)  
3 Housekeeping  
4 MR POTTS: My Lord, on Friday, before we get into --  
5 MR JUSTICE HILDYARD: Yes, a rather helter-skelter ending,  
6 for which I apologise.  
7 MR POTTS: Your Lordship asked about timetabling. I sent my  
8 learned friend over the weekend an updated timetable  
9 starting from where we are and moving forward. I have  
10 spoken to him this morning. I think -- I haven't had  
11 a chance to work through the detail. Broadly, my Lord,  
12 we would like to explore with your Lordship as to the  
13 position for next term. (Handed)  
14 We are suggesting that we press on, finish the  
15 evidence. Perhaps, my Lord, if your Lordship just sees,  
16 it's part of this document, and it's historic. If we  
17 start on Monday 16th. This is my version, I think my  
18 learned friend has a version which is slightly  
19 different, but I think we can probably do it off here.  
20 Today we have Ms Rosier and then Mr McAlindon.  
21 Tuesday, Mr Raines and Mr Rowe. I think my friend says  
22 he might be a little quicker, picking up the pace here,  
23 with them. We have on Wednesday Ms Mancini and  
24 Mr McGowan, I think on his estimate he thinks he may  
25 have finished with them by Tuesday. Then we have

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1 Wednesday afternoon very short, an hour each opening  
2 orally on Uckfield. Then on my timetable we have Mr and  
3 Mrs Parham, who are the two main witnesses for the  
4 claimants on that, before we break.  
5 I think on my friend's timetable, he is the same,  
6 although he thinks we may be able to get to the  
7 smaller -- sorry, we have to deal with Ms Lofting in  
8 fact as well on Wednesday, because she is under  
9 a summons. You will see that on my timetable. We are  
10 suggesting -- on my friend's side he thinks we may be  
11 able to get to the smaller witnesses on Uckfield as  
12 well. I am a little sceptical on that but we will see  
13 how we go.  
14 Then, my Lord, the position then is when we come  
15 back in January -- what I wasn't too sure, my Lord, is  
16 whether your Lordship was offering us just the Thursday  
17 potentially of the 9th or the Thursday and Friday of the  
18 week before term starts.  
19 MR JUSTICE HILDYARD: Well, the basis on which I offered the  
20 Thursday was on the basis we would be able to conclude  
21 it, so I will keep that under review. Monday is also  
22 vacation, and I have a number of judicial meetings on  
23 that day.  
24 MR POTTS: I think on either basis we do feel we can finish  
25 in that first week, with the assistance of whatever days

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1 your Lordship could give us, certainly the Thursday --  
2 it sounds like we made a mistake, I am sorry about  
3 Monday the 13th, I had forgotten about the start of  
4 term. Our feeling is that there is -- on my friend's  
5 timetable, he feels that the evidence would be concluded  
6 on the Monday the 13th. I think it would probably be on  
7 the -- sorry, that was on the basis we both made  
8 a mistake on it being Monday and Tuesday, in fact it may  
9 be Tuesday and Wednesday, but we both feel we would  
10 finish the evidence Tuesday or Wednesday, I think and  
11 then it would be a question of coming back to do the  
12 closings.  
13 Obviously, my Lord, we would have the advantage of  
14 some time over the vacation to advance written closings  
15 at least on Bognor.  
16 The aim, my Lord, is on our timetable to finish in  
17 the first week of term, which is I think what  
18 your Lordship indicated we should seek to do.  
19 MR JUSTICE HILDYARD: But if we took the Thursday and the  
20 Monday, you would not finish?  
21 MR POTTS: Sorry, the Thursday?  
22 MR JUSTICE HILDYARD: Thursday the 9th and 13 January, if  
23 I take those away from you, we would not finish. What  
24 would happen if I took the Monday away from you, as  
25 I think I must do in any event actually?

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1 MR POTTS: So my Lord, you are saying not the Thursday and  
2 not the Monday? So we would start on Tuesday the 14th.  
3 (Pause). I have to say, my Lord, I thought the Monday  
4 was term.  
5 MR JUSTICE HILDYARD: I think from 2 o'clock onwards maybe.  
6 MR POTTS: I see.  
7 MR JUSTICE HILDYARD: It's just we have meetings in the  
8 morning. But my clerk will have a look at that.  
9 MR POTTS: Yes.  
10 MR JUSTICE HILDYARD: How many days overrun will we have  
11 compared to the estimate of 15 days?  
12 MR STUART: My Lord, it looks like three to three and  
13 a half.  
14 MR POTTS: Obviously, my Lord, there has been a number of  
15 days which have been somewhat shortened by the --  
16 MR JUSTICE HILDYARD: There have been some which have been  
17 lengthened.  
18 MR POTTS: My Lord, that's true.  
19 MR JUSTICE HILDYARD: I wouldn't care to say whether we are  
20 up or down on that. Three to four days' overlap.  
21 MR STUART: My Lord, yes.  
22 MR JUSTICE HILDYARD: Over budget, as it were. Yes.  
23 MR STUART: My Lord, you will recall that -- it's looking  
24 hopeless for me personally now -- I had a problem.  
25 I know my learned friend had initially thought he had

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1 a problem for that first week, and he has managed to  
 2 sort out his itinerary. If your Lordship is starting on  
 3 the 14th, starting with this case on the 14th, then  
 4 plainly there is no work around that's going to enable  
 5 me to do my other case, so I will have to return my  
 6 other case promptly, I think.  
 7 MR JUSTICE HILDYARD: My clerk is finding out about Monday.  
 8 Obviously if my meetings are finished in time, and then  
 9 I will sit on the Monday when they are finished, which  
 10 would not be before 2 o'clock.  
 11 MR STUART: No, my Lord, it's just that the way I was trying  
 12 to work it was that we sat on Thursday the 9th, I was  
 13 hoping that there was a possibility of the 10th but that  
 14 sounds fairly unlikely, and then trying to finish the  
 15 evidence on the Monday, and then come back for the  
 16 submissions. I think my learned friend has two -- he  
 17 has put in his thing two blank days, as it were, and  
 18 come back on the Friday.  
 19 MR JUSTICE HILDYARD: My initial impression of this is it's  
 20 not going to be achieved. I am hoping for detailed  
 21 submissions. The likelihood is that on any day when you  
 22 are writing submissions, I'll be in court. I have to  
 23 have some time to read and digest the closing  
 24 submissions, and if I get them on Thursday 16 January at  
 25 4 o'clock, I won't really have time to read and digest

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1 them.  
 2 You are going to finish Mr McAlindon today, are you?  
 3 MR STUART: I certainly hope so, my Lord, yes.  
 4 MR JUSTICE HILDYARD: Right.  
 5 MR STUART: I am going to try. If I drift over slightly, it  
 6 will not be long into the morning. I'll cut down my ...  
 7 MR JUSTICE HILDYARD: Well, I don't -- you know, he is  
 8 an important witness.  
 9 MR STUART: He is, my Lord.  
 10 MR JUSTICE HILDYARD: I have literally not even blinked at  
 11 this before it was shoved up to me.  
 12 MR POTTS: I am sorry, my Lord, I had sent it over the  
 13 weekend, my Lord, I only had a chance to speak to my  
 14 learned friend this morning as to his position.  
 15 MR STUART: My Lord, I do accept that this is -- the answer  
 16 is if we are not sitting on the 9th and half of the  
 17 13th, then more realistically if we are then starting on  
 18 Tuesday 14 January, a more realistic and definitely  
 19 achievable timetable would see the end of the evidence  
 20 some time that week, and it might be the Wednesday,  
 21 Thursday or Friday, I don't know, but obviously as soon  
 22 as possible. And then a gap of some sort in which the  
 23 closing submissions to be finalised and put before  
 24 your Lordship, and then your Lordship, as you say, to  
 25 have an opportunity to consider them, and then

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1 a hearing.  
 2 If I am returning my trial starting on the 14th,  
 3 then it doesn't really bother me too much, I am going to  
 4 be free for that whole week, and the first --  
 5 MR JUSTICE HILDYARD: Yours starts on the 14th?  
 6 MR STUART: Yes, my Lord, mine sits on the 14th, 15th, 16th,  
 7 17th, so the Tuesday to the Friday. It then doesn't sit  
 8 on the Monday the 20th.  
 9 MR JUSTICE HILDYARD: You are not going to be able to do  
 10 that, even on this.  
 11 MR STUART: No, no, exactly. This is my learned friend's.  
 12 Mine tried to have the closing submissions on the 20th  
 13 or the 22nd, that is in the next week, on the basis that  
 14 that we could get your Lordship some written closing  
 15 submissions.  
 16 MR JUSTICE HILDYARD: I see. Where is yours? I am sorry to  
 17 be rather slow on this, but you haven't handed yours up  
 18 at all.  
 19 MR STUART: No, I haven't yet --  
 20 MR JUSTICE HILDYARD: Mr Potts handed his up a minute or two  
 21 ago.  
 22 MR STUART: I waited. (Handed)  
 23 Your Lordship will see one manuscript amendment by  
 24 me, which is that I had forgotten to put Mrs Lofting,  
 25 the short witness, I had forgotten to move her forward.

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1 Mr Potts reminds me that Mr Dyson is not going to be  
 2 interposed now, he is going to come after, which now  
 3 looks inevitable, well, it will definitely be January,  
 4 not December. So he has gone, he is going away for  
 5 Christmas and coming back.  
 6 MR POTTS: Well, he is going home.  
 7 MR STUART: Yes, that's what I mean. So Mr Dyson won't be  
 8 here to be interposed, as per the previous chronology.  
 9 My Lord, what I think I am saying is that I fully  
 10 acknowledge --  
 11 MR JUSTICE HILDYARD: You have rather given up on the  
 12 thought of retaining your brief.  
 13 MR STUART: Now that I have heard that your Lordship is  
 14 certainly not sitting on half a day on the 13th,  
 15 possibly the whole of the day, and there's a real  
 16 likelihood that we might not get the 9th, and I was even  
 17 hoping to try and get the 10th as well to try and give  
 18 me a chance, but I think I am being unrealistic to  
 19 myself there, and therefore I am just going to have to  
 20 return that brief and make myself available for the  
 21 whole of the week of the 13th through to the 22nd --  
 22 MR JUSTICE HILDYARD: What about your position, Mr Potts?  
 23 MR POTTS: My Lord, it's the same as before. As I said, the  
 24 first week of term I have had an indication that this  
 25 will be reading, so we will be starting proper on Monday

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1 the 20th, I think it is, and then, my Lord, as  
 2 I mentioned what the matter is, it's a six-week  
 3 shareholder dispute.  
 4 My Lord, thinking about --  
 5 MR JUSTICE HILDYARD: Do you have an assigned judge for  
 6 that?  
 7 MR POTTS: I don't think so, my Lord, no. Not that I have  
 8 heard. I will make some further enquiries, but  
 9 certainly as of last week we hadn't. I think the first  
 10 point is -- there are two issues, if I might suggest,  
 11 one is obviously getting the evidence done, the second  
 12 is the written closings. In terms of the evidence,  
 13 I think we are all agreed the idea is that we should  
 14 come back, get as much progress as we can and finish it  
 15 in the first week of January, query the Thursday before  
 16 as well.  
 17 Your Lordship's point about having a little more  
 18 time from closing, obviously I will be in difficulties  
 19 because we are straight into quite a busy stage of the  
 20 trial from my clients' point of view. But it may be,  
 21 my Lord, if your Lordship is thinking we might have  
 22 a short gap and come back for the oral closings at some  
 23 point, I can make enquiries. It's a six week trial,  
 24 I am sure there will be a day when the judge isn't  
 25 sitting, and it may be that I can speak to my team to

1 see whether I could be absented for a day to deal with  
 2 the oral side of the submissions, if that's  
 3 your Lordship's concern. Obviously I don't know  
 4 your Lordship's diary for January as well, your Lordship  
 5 may indeed be --  
 6 MR JUSTICE HILDYARD: Neither do I.  
 7 MR POTTS: My Lord, our feeling was that in a sense, the  
 8 more days your Lordship could give us early, the better  
 9 chance we have -- certainly we would finish the evidence  
 10 earlier -- of dealing with the closing as well in  
 11 a timely fashion. Beyond that, we are obviously in  
 12 your Lordship's hands.  
 13 MR JUSTICE HILDYARD: I will have a look at this. The basis  
 14 on which I was prepared unusually to sit in vacation --  
 15 because vacation is vacation in the High Court -- was  
 16 that we would have submissions on that day rather than  
 17 simply be an extra day. I will talk to the Clerk of the  
 18 List, and see what is planned for me and get back to  
 19 you. I will also see where we are at the end of today,  
 20 which may be a useful indication. I have  
 21 an uncomfortable feeling that you may have been  
 22 overoptimistic, but maybe I am wrong.  
 23 Just by way of warning, and I think I gave this  
 24 warning, tomorrow I have an engagement at 12 o'clock, so  
 25 I propose to sit at 9.30, if that is convenient to you,

1 until quarter to 12, and then resume at quarter to 2, if  
 2 that also is convenient to you, and I must rise at 4.25,  
 3 as I have a meeting at 4.30 elsewhere, so I have to give  
 4 myself five minutes to rush.  
 5 Let's see how we go.  
 6 MR POTTS: My Lord, yes. As I said, my Lord, our aim is on  
 7 any basis to start the evidence this term, I am hoping  
 8 we can certainly deal with Mr and Mrs Parham and then  
 9 the evidence will be completed in that first week in  
 10 January. On any basis, I think between us we would feel  
 11 that that's certainly achievable.  
 12 MR JUSTICE HILDYARD: That's better, is it, than drawing  
 13 a true distinction between the Poulsen and the Parham  
 14 case and having skeleton arguments concerning closings  
 15 in Poulsen and try and deal with that at least?  
 16 MR POTTS: My Lord, our feeling was that it's best to close  
 17 both at the end, and I think that was the timetable that  
 18 was agreed at the outset. I don't think there has been  
 19 a change of view in that.  
 20 MR JUSTICE HILDYARD: You recommend that to me? One worry  
 21 I have is that as I understand it from you, evidence in  
 22 the one case is not evidence in the other, it's keeping  
 23 clear in one's mind the evidential basis of each.  
 24 MR POTTS: It is, my Lord, although the --  
 25 MR JUSTICE HILDYARD: I know there is common evidence.

1 MR POTTS: Particularly on our side, my Lord, the other  
 2 point is that on our side we have witnesses giving  
 3 evidence in each matter twice, if you like. So our  
 4 feeling was that it was better for your Lordship to have  
 5 heard the totality of the evidence in that regard before  
 6 making assessments of witnesses, for example.  
 7 MR JUSTICE HILDYARD: Right.  
 8 MR STUART: My Lord, on that last point, it does appear that  
 9 the evidence that is common is the defendants' evidence,  
 10 obviously, take Mr Dyson as an example, all of the  
 11 structure stuff and the team stuff and all of that stuff  
 12 that I questioned him about are obviously matters which  
 13 could also be relevant, would be relevant to the issues  
 14 in the --  
 15 MR JUSTICE HILDYARD: Am I to take it into account? That's  
 16 what I have been getting at. I mean, Mr Dyson is to  
 17 come back after Christmas. Am I to take into account  
 18 the evidence he gave on Friday, and my impressions of  
 19 him then, in the Parham matter?  
 20 MR STUART: Certainly my contention would be that you  
 21 should, my Lord, and if I have to --  
 22 MR POTTS: Yes, I am content with that, my Lord.  
 23 MR STUART: I had always understood that that was the basis  
 24 on which we were proceeding. Mr Dyson's  
 25 cross-examination in the second matter was to be much

1 shorter because I would not have to deal with it,  
 2 et cetera.  
 3 MR JUSTICE HILDYARD: So the evidential basis will be  
 4 available, will it?  
 5 MR STUART: Yes.  
 6 MR JUSTICE HILDYARD: So the evidence in one is evidence in  
 7 the other.  
 8 MR STUART: Yes.  
 9 MR POTTS: I think that's right, my Lord, yes. We agreed it  
 10 would not be necessary to cross-examine again on, for  
 11 example, those structural issues and so on. So I think  
 12 that must be right, my Lord, yes.  
 13 MR JUSTICE HILDYARD: I think you must formulate this  
 14 properly. Supposing the matter were to proceed on  
 15 appeal in one and not the other, or supposing there were  
 16 different results in the one than the other, the Court  
 17 of Appeal would have to know precisely what the  
 18 evidential basis was for each, and although it may look  
 19 all fluid now, it will, in the cool light of day  
 20 afterwards, be considered inappropriately uncertain. So  
 21 you must between you seek to fashion some direction as  
 22 to what evidence is to be admissible in both cases,  
 23 though derived from witnesses in one rather than the  
 24 other, and the extent to which it is permissible for me  
 25 to form conclusions as regards one and translate them

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1 over to the other. That is why I enquired as to whether  
 2 there had been a direction for in effect consolidation  
 3 rather than merely concurrent trials.  
 4 MR POTTS: My Lord, if I may, we will liaise on that point.  
 5 MR JUSTICE HILDYARD: Yes. Let's hammer on for the moment  
 6 and see where we get to, and I'll have a look and see  
 7 where my diary is. I don't think it's likely, Mr Potts,  
 8 so you can rest easier than otherwise you might,  
 9 I suppose it's not impossible that I would be the judge  
 10 in the six week matter, in which case I could suit  
 11 myself, I suppose.  
 12 MR POTTS: My Lord, there is one other point I just need to  
 13 raise, my Lord, this morning, which is an issue in  
 14 relation to disclosure.  
 15 MR JUSTICE HILDYARD: Yes.  
 16 MR POTTS: My Lord, on Friday evening we disclosed some  
 17 notes from Mr Rowe, and, my Lord, an apology is due in  
 18 relation to this. (Handed). These are some manuscript  
 19 notes which are attached to a witness statement.  
 20 My Lord, perhaps if I can -- the witness statement,  
 21 there is no issue about that coming in. It's pages 1  
 22 onwards, 1 to 6 of the witness statement, are some  
 23 manuscript notes of Mr Rowe prepared in advance of the  
 24 BRM.  
 25 My Lord, the reason why these were not disclosed is,

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1 I am afraid, a filing error, it's not down to the  
 2 client, I am afraid it is a matter for which  
 3 I apologise, it was an issue on behalf of my instructing  
 4 solicitors, in fact. The notes were provided by Mr Rowe  
 5 in April of this year to my solicitors, but regrettably  
 6 due to a filing error they were filed in the wrong file  
 7 internally, and so they were not disclosed. Mr Rowe was  
 8 in court on Friday and heard Mr Dyson being  
 9 cross-examined in relation to notes, and this caused him  
 10 to recall this issue, which led to the matter being  
 11 investigated and the notes being picked up by my  
 12 solicitors.  
 13 In light of that, they were disclosed on Friday, and  
 14 an explanation as to the error provided on Saturday, and  
 15 this witness statement which explains, if you like, the  
 16 genesis of the document, because it's a slightly -- the  
 17 document requires some explanation, and so that witness  
 18 statement was provided yesterday, which explains the  
 19 circumstances of the preparation of the note.  
 20 Now, my friend doesn't take any objection in  
 21 relation to the witness statement, I understand. These  
 22 are matters which would in any event come out in his  
 23 examination, cross-examination, and my concern was to  
 24 ensure that Mr Stuart wouldn't be taken by surprise in  
 25 relation to this matter.

15

1 So, my Lord, I offer the apology in relation to the  
 2 late disclosure which, as I say, it was a document which  
 3 was provided to my solicitors in April of this year,  
 4 it's not a failure on their part. It's not a new matter  
 5 in a sense, it's a matter which is dealt with in the  
 6 existing evidence, it's not a new allegation or anything  
 7 like that.  
 8 MR JUSTICE HILDYARD: Given the emergence of this error,  
 9 with respect to the internal filing system, and given  
 10 the cross-examination which was, I should imagine,  
 11 inevitable as to the apparent paucity of evidence, of  
 12 documentary record at a high level, have your solicitors  
 13 been prompted to undertake a full review in case there  
 14 are other documents from other sources which have  
 15 inadvertently not been disclosed?  
 16 MR POTTS: My Lord, just firstly I'll take instructions on  
 17 that, my Lord, but the point on the filing, just to make  
 18 clear, this is my solicitor --  
 19 MR JUSTICE HILDYARD: Yes, I understand that.  
 20 MR POTTS: Can I just take instructions?  
 21 MR JUSTICE HILDYARD: Yes.  
 22 MR POTTS: (Pause). My Lord, a check has been undertaken in  
 23 that regard, but given your Lordship's comments,  
 24 a further check will be done, but one has been done,  
 25 yes.

16

1 MR JUSTICE HILDYARD: Thank you very much.  
 2 MR STUART: Just on that, your Lordship mentioned the  
 3 question of prompting, we have written asking for the  
 4 file -- you will remember Mr Dyson's evidence about  
 5 there being a Bognor file which we have never seen, and  
 6 we have written asking for it, and we haven't had  
 7 a response yet. So we would like to see that file. It  
 8 does seem to be potentially important.  
 9 MR POTTS: We will deal with that. My Lord, my  
 10 understanding is the contents of that file have been  
 11 disclosed, that is part of our disclosure. And a letter  
 12 has been sent, but we will liaise with that.  
 13 MR JUSTICE HILDYARD: Just as a matter of enquiry, I have  
 14 not looked at your list of documents and I don't know  
 15 whether it's included in the files, but does the list of  
 16 documents indicated the source of documents disclosed so  
 17 that, for example, one knows whether those documents  
 18 came from the Bognor Regis store file, whether they came  
 19 from central office, where they originated from?  
 20 Because in a case where, in effect, you seek to insulate  
 21 the top brass from what is called the "banter of the  
 22 Indians", it could be important.  
 23 MR POTTS: My Lord, I don't know the answer to that.  
 24 MR STUART: My Lord, you will find it in bundle A, tab 11,  
 25 the defendants' list of --

1 MR JUSTICE HILDYARD: What would it tell me? I know it will  
 2 be gripping to read.  
 3 MR STUART: It tells you the date of the document, the title  
 4 of the document, and the author, as it's put, but the  
 5 author is often put "Specsavers Optical Group", so not  
 6 an actual person. No, no question as to where it's come  
 7 from. I don't know where this suggestion that the file  
 8 has been disclosed, but anyway no doubt we will see this  
 9 in some correspondence today.  
 10 MR JUSTICE HILDYARD: Well, I mean, Mr Stuart, this may be  
 11 a matter which was a matter for you or your solicitors  
 12 to raise, I don't know, submissions will be made in due  
 13 course, but in a case where it is, as I understood it,  
 14 intended to be submitted that the objectives of the  
 15 Indians are not to be attributed to the chiefs, and are  
 16 therefore not to be attributed to the company, which as  
 17 I understand it is to be submitted, that is an important  
 18 matter. I leave it at that.  
 19 MR STUART: My Lord, obviously we didn't even know about the  
 20 existence of this file until Mr Dyson mentioned it.  
 21 MR JUSTICE HILDYARD: No, not that file.  
 22 MR STUART: That is said to be the chiefs Bognor file.  
 23 Nobody ever told us there was a chiefs Bognor file until  
 24 Mr Dyson admitted it in the box on Friday.  
 25 MR JUSTICE HILDYARD: All right. It seems to me that's very

1 urgent to find out what its composition was in its  
 2 original state, and I shall imagine you will need to  
 3 consider that when provided. Otherwise, so far as the  
 4 latest disclosure is concerned, you are not discomfited  
 5 in proceeding to cross-examine on the footing of it?  
 6 MR STUART: My Lord, I understand it's a note. Mr Rowe says  
 7 it's his note, I will cross-examine him about it.  
 8 MR JUSTICE HILDYARD: Fine, I'll leave that to you. Okay.  
 9 MR STUART: So, my Lord, I think we will have Ms Rosier in,  
 10 you will recall she is coming back from last week.  
 11 MS RHONDA ROSIER (sworn)  
 12 MR JUSTICE HILDYARD: Ms Rosier, do sit down, help yourself  
 13 to water.  
 14 Examination-in-chief by MR STUART  
 15 MR STUART: Ms Rosier, you have bundle B?  
 16 A. Yes.  
 17 Q. If you turn to tab 8, the pagination is in the top  
 18 right-hand corner, it should start at 157. Do you have  
 19 157?  
 20 A. Yes.  
 21 Q. If you go to the back of that tab, page 162, is that  
 22 your signature?  
 23 A. It is.  
 24 Q. Is this your statement?  
 25 A. It is.

1 Q. Are the contents true?  
 2 A. Yes.  
 3 MR STUART: Just wait there, Mr Potts will have some  
 4 questions for you.  
 5 Cross-examination by MR POTTS  
 6 MR POTTS: Good morning.  
 7 A. Good morning.  
 8 Q. If you could turn to paragraph 14 of your statement,  
 9 just to deal with timing, you started work at the store  
 10 on 22 October 2007?  
 11 A. Yes.  
 12 Q. And you left in April 2009?  
 13 A. Yes.  
 14 Q. About 18 months?  
 15 A. Roughly.  
 16 Q. Roughly, about 18 months in the store; is that right?  
 17 A. Yes.  
 18 Q. You started as an optical assistant doing pre-testing,  
 19 and then you moved on to the shop floor; is that right?  
 20 A. Yes.  
 21 Q. When you were on the shop floor, was it Mr Weller you  
 22 reported to?  
 23 A. Mainly, yes.  
 24 Q. Because he was the retail director?  
 25 A. He was on the shop floor with us all the time.

1 Q. So Dr Poulsen was doing the optical side of things,  
2 testing --  
3 A. Yes.  
4 Q. -- and Mr Weller was running the retail side?  
5 A. Downstairs, yes.  
6 Q. Was he responsible for training you and your  
7 development, getting you on to the shop floor from  
8 pre-testing as well?  
9 A. He was one of them, yes.  
10 Q. You say that in 2008, in paragraph 30 of your statement,  
11 you became very ill and found out that you might need  
12 a serious operation?  
13 A. Yes.  
14 Q. Was that early in the year or late in the year?  
15 A. It was ongoing, later on in the year, 2008, I think,  
16 roughly. So more towards Christmas sort of time.  
17 Q. Did that mean you had to take some time off work because  
18 of the illness?  
19 A. I had sporadic days off.  
20 Q. You also say that issues in the store meant that you  
21 also started taking some sick time off as well?  
22 A. Yes.  
23 Q. Is that right? That was during the same period and up  
24 to the time that you left --  
25 A. Yes.

1 Q. -- up through to 2009 --  
2 A. Yes.  
3 Q. -- when you left. Right. So between the two factors,  
4 if you like, the illness and the issues in store, were  
5 you away from the store a fair amount of time? Sporadic  
6 days, but --  
7 A. Sporadically, there were occasional cover days here and  
8 there.  
9 Q. Okay.  
10 In paragraph 22 of your statement, you say that you  
11 were informed that head office had accused Mr Vos of not  
12 doing much work in the business and paid for work that  
13 he didn't do, and you say that head office weren't in  
14 the store very much?  
15 A. Yes.  
16 Q. Were you informed that the accusation in fact relates to  
17 the period during his employment, which was from  
18 June 2009 onwards, which is after you left the store?  
19 Did you appreciate that?  
20 A. I appreciate that but obviously I can only speak for  
21 when I was at work, which was that time period.  
22 Q. You had some subsequent contact with Mr Vos, didn't you,  
23 after you left the store?  
24 A. Yes, I have been in contact.  
25 Q. A little bit, but you are not in a position to comment

1 what he might have been doing in the store after you  
2 left in April 2009?  
3 A. No.  
4 Q. Okay. Just a couple of points in terms of the period  
5 where you were in the store. You say in paragraph 24  
6 that on his days off and when he was off or on holiday,  
7 Mr Weller would, or one of the other managers would  
8 telephone Mr Vos at closing time. At that time, Mr Vos  
9 wasn't an employee, when you were there, of the store,  
10 was he? He was a consultant. Did you appreciate that?  
11 A. I don't know, all I know is that he used to deal with  
12 all the things that we used to have to go to him for.  
13 Staff rotas and everything else. So I don't know  
14 whether he was employed or not, it's not my business to  
15 know.  
16 Q. I see. But he was -- in terms of how many days a week,  
17 in the period for his employment, after he had left, the  
18 evidence indicates that on the whole he was in probably  
19 around three days a week. Do you have a recollection as  
20 to how often he was in?  
21 A. He was in regularly. Obviously I had a day off during  
22 the week, because I worked Saturdays, so I had days off  
23 during the week, but I was often pre-screening, testing  
24 in the pre-screening room and dispensing. So I saw him,  
25 but I wouldn't like to say how many times. Regularly.

1 Q. When you say regularly, not every day of the week?  
2 A. Most days, and if he wasn't in, he was in the phone most  
3 days. I answered the telephone to him most days.  
4 Q. Let's deal with in terms of when you actually saw him.  
5 You say you thought he was in some point most days of  
6 the week?  
7 A. Most days, there were obviously occasional days he  
8 wouldn't be, but as I said, I was getting on with my  
9 dispensing and things so ...  
10 Q. Right. The evidence in terms of the time of his  
11 employment was that he would come in in the morning, pop  
12 in in the morning for a while, and come in towards the  
13 end of the day, sometimes with Dr Poulsen's dog at the  
14 end of the day. Does that accord with your recollection  
15 of the earlier period as well?  
16 A. Yes, sometimes they would go off for meetings and stuff  
17 in between as well, so sometimes he would pop in briefly  
18 and then leave for a meeting and then come back.  
19 Q. How long was he in at the start of the day and the end  
20 of the day, do you remember?  
21 A. I wouldn't like to say, to be honest. Sometimes  
22 I didn't see him come in or I didn't see him leave, but  
23 I would see him in the store, so ...  
24 Q. Okay. In terms of you've mentioned that he was  
25 available on the phone, were any other members of the

1 staff apart from Mr Weller in frequent contact with him  
2 on the phone, from your recollection?  
3 A. We were all allowed to call him at any time anyway, so  
4 if there were any issues in the store, be it with  
5 customers, or stock, et cetera, we would all call him  
6 but I know that Sarah Scott used to call him, that's one  
7 of the managers there, so she would maybe contact, and  
8 other members of staff.  
9 MR POTTS: Right. I have no further questions, thank you  
10 very much.  
11 MR STUART: I have no re-examination for Ms Rosier. Does  
12 your Lordship have any questions for her?  
13 MR JUSTICE HILDYARD: I do not. Thank you very much for  
14 your attendance. May she be released?  
15 MR STUART: If she could, please, my Lord. Yes.  
16 You are released, you don't need to come back,  
17 Ms Rosier.  
18 THE WITNESS: Thank you very much.  
19 (The witness withdrew)  
20 MR STUART: My Lord, I think I hand back to Mr Potts now.  
21 MR JUSTICE HILDYARD: Yes.  
22 MR POTTS: My Lord, I call Mr McAlindon.  
23 MR MEL MCALINDON (sworn)  
24 MR JUSTICE HILDYARD: Do sit down, and grab some water. If  
25 you need a break, let me know.

25

1 Examination-in-chief by MR POTTS  
2 MR POTTS: Could you be passed, please, volume C. Do you  
3 have it?  
4 A. Yes.  
5 Q. Please could you turn to tab 3, and at pages 51 through  
6 to 84, is that a copy of your first witness statement in  
7 this matter?  
8 A. It is.  
9 Q. At page 84, is that your signature?  
10 A. It is.  
11 Q. Do you confirm that the contents of that statement are  
12 true?  
13 A. I do.  
14 Q. Could you turn through to the next tab, pages 86 through  
15 to 90, is that your second witness statement in this  
16 matter?  
17 A. It is.  
18 Q. Is your signature on page 90?  
19 A. No, it's not.  
20 Q. No. Can you confirm, have you read that statement  
21 recently?  
22 A. I have, yes.  
23 Q. Can you confirm that the contents of that statement are  
24 true?  
25 A. I can. I have signed a copy of this.

26

1 Q. We do have a signed copy. I will just check that it was  
2 signed and on what date. (Handed). My Lord, is  
3 your Lordship's signed? We will get you a signed page.  
4 MR JUSTICE HILDYARD: What page should it be?  
5 MR POTTS: I think it's 90, my Lord.  
6 A. This one is signed by me on 23 August.  
7 MR JUSTICE HILDYARD: Let's have a look. It isn't signed,  
8 no.  
9 MR POTTS: My Lord, we will get the signed page for  
10 your Lordship.  
11 Are the contents of that statement true?  
12 A. They are.  
13 MR POTTS: Would you just wait there.  
14 Cross-examination by MR STUART  
15 MR STUART: Mr McAlindon, could we deal with your first  
16 statement, then, first? Starting at page 51 in the  
17 bundle. You have it, good. Just some preliminary  
18 points, then: the loss prevention department that you  
19 describe at paragraph 5 onwards, I am looking at  
20 paragraph 7, do we have it right that effectively if we  
21 leave aside the NHS audit team, whoever they might be,  
22 five people, the remainder are the four of you,  
23 Mr Barnes who did the interviewing in this case, didn't  
24 he?  
25 A. Yes.

27

1 Q. And I think it was his report actually, wasn't it, was  
2 it his investigation report?  
3 A. Well, it was my report. I wrote the report with  
4 Phil Barnes when he completed all the investigation  
5 side.  
6 Q. Okay, so --  
7 A. So I compiled the report with him.  
8 Q. Okay. Is he your number two, as it were?  
9 A. He is, yes.  
10 Q. Then Mr Gutteridge, what's his level?  
11 A. Mr Gutteridge and Mr Walls are just beneath Mr Barnes.  
12 Q. Okay. So a simple organogram for your team here: you at  
13 the top, Mr Barnes, and then the other two --  
14 A. Correct.  
15 Q. -- beneath.  
16 If we just go back to your paragraph 4, the  
17 background paragraph, as you call it. You say:  
18 "The investigation disclosed that the claimants had  
19 been improperly making false payments to third parties  
20 and thereby siphoning money out."  
21 You are talking about the payments made to Mr Vos  
22 and Mr Ferguson; yes?  
23 A. I am, yes.  
24 Q. You say that you were responsible for investigating in  
25 2011 and reporting on. Do you see that?

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1 A. Yes.  
 2 Q. I just want to get the chronology clear here right from  
 3 the outset, before we go off on a false premise.  
 4 A. Yeah.  
 5 Q. Which investigation are you referring to there?  
 6 A. I am referring to an email instruction that I received  
 7 from Derek Dyson that had an attachment with some  
 8 email -- I think it was three, four bits of paper, that  
 9 were part of a single pdf file, in which he requested me  
 10 to start an investigation into the finances.  
 11 Q. So that, I think we will find, was 8 February?  
 12 A. I believe so.  
 13 Q. So on your version of events, nobody contacted you  
 14 before -- your team -- 8 February?  
 15 A. Not in relation to anything financial.  
 16 Q. So Mr Dyson, then, if he said that your team was  
 17 contacted between 5 and 10 January, that would be wrong?  
 18 A. I don't know. Could you refer to where I am --  
 19 Q. I am just asking you now. Your evidence is clear, no  
 20 contact --  
 21 A. In relation to --  
 22 Q. -- before the 8 February email?  
 23 A. In relation to the investigation which he asked me to  
 24 perform, that was the first time I had received any  
 25 instruction.

1 Q. Looking at your witness statement, I am looking  
 2 particularly at paragraphs 13 and 14 now, at 13 you  
 3 refer to that 8 February email; do you see?  
 4 A. Yeah.  
 5 Q. And then 14:  
 6 "Subsequently on 28 February I was copied in on  
 7 a business transfer update from Mr Ryan."  
 8 A. That's correct.  
 9 Q. Then you say:  
 10 "As is usual when a share sale is proposed, the loss  
 11 prevention department commenced an audit into the store  
 12 company."  
 13 Do you see that?  
 14 A. I do.  
 15 Q. So what you appear to be saying there is not "would  
 16 commence" but "commenced", and it's following on from  
 17 28 February, you say you received notice of this sale of  
 18 the shares?  
 19 A. There are -- apart from instructions that we received to  
 20 complete investigations, there are a number of other  
 21 functions that we perform from a risk management  
 22 perspective. So we are on mailing lists for both  
 23 business transfer, who send an email out about once  
 24 a month, giving a list of all the instructions for sale  
 25 of shares, and we are also on another circulation list

1 called the TAPS list, which is Turnaround Practice  
 2 Stores, which are stores that are in financial  
 3 difficulty, and part of our routine risk management  
 4 process is any new stores that appear on that list that  
 5 we have not looked into, we would take a general look  
 6 through the accounts in both the financially struggling  
 7 stores as well as those stores where shares have been  
 8 sold, to make sure that there is no other underlying  
 9 problems that would either kick back when a share sale  
 10 arises. For example, there could be large writeoffs in  
 11 the NHS debtor and we need to take that into account as  
 12 part of the share sale. So we have to do some due  
 13 diligence to make sure that there is no underlying  
 14 financial problems in any store for the share sale, or  
 15 in respect of the TAPS stores we need to make sure that  
 16 there is no underlying causes, for example dishonesty  
 17 being one of them, or poor financial management in terms  
 18 of managing debtor payments that could be the cause of  
 19 them financially struggling.  
 20 So those two processes are ongoing on a monthly  
 21 basis, and are separate to instructions that we receive  
 22 from a range of people, in this particular case it was  
 23 Derek Dyson, that instructed us to look at a specific  
 24 problem.  
 25 Q. Let's just take that a little -- this sort of automatic

1 audit that you say occurs when some share sale is on the  
 2 cards, and you refer to -- I have referred you to  
 3 paragraph 14 -- the update. I think could you be passed  
 4 bundle E3, page 812. That, I think, is the email you  
 5 are referring to, 28 February, from Mike Ryan. Do you  
 6 see that?  
 7 A. Yes.  
 8 Q. "Attached BT update", that's business transfer update.  
 9 We see the update starting on 814. Do you see that?  
 10 A. I do.  
 11 Q. Obviously most of it is blanked out, the only item that  
 12 is not blanked out is Bognor Regis. Do you see that?  
 13 A. Yes, I do.  
 14 Q. In your statement, two lines up, at the end of  
 15 paragraph 7, you say:  
 16 "An audit may also take place where shares in  
 17 a store company are going to be sold."  
 18 Do you remember? Paragraph 7, two lines from the  
 19 bottom. This is page 53 of your bundle.  
 20 A. Yes.  
 21 Q. Are you saying that an audit will automatically take  
 22 place, when shares are to be sold?  
 23 A. Erm --  
 24 Q. Or is there somebody making a discretion to do so?  
 25 A. No. In most cases, probably 90 per cent of the cases,

1 we look at every new store that appears on the list.  
 2 There have been occasions when we have missed one or two  
 3 stores, but as a general rule, these are checked off as  
 4 and when they appear on the list.  
 5 Q. Right. So looking -- I am sorry to keep flicking  
 6 backwards and forwards, but I do want to understand what  
 7 you are saying as to the sequence here, because it's  
 8 important. Going back to paragraph 14 of your  
 9 statement, you received that document on 28 February?  
 10 A. Correct.  
 11 Q. The update noted that Mr Weller had expressed  
 12 an interest in selling his A shares; is that right?  
 13 A. Correct.  
 14 Q. Actually we know, and you have probably seen the later  
 15 correspondence, that he hadn't formally written and sent  
 16 in the right letter and form to say he personally wanted  
 17 to sell his shares, it had all come through Dr Poulsen,  
 18 and people were writing to him asking him to confirm "do  
 19 you want to sell your shares?" Do you recall that?  
 20 A. I was unaware of all that happening, but I can see that  
 21 from the transfer document it says that he is  
 22 a potential seller.  
 23 Q. 815, third dot down:  
 24 "Letter sent to BW explaining process. No response  
 25 as yet."

33

1 Is that the one?  
 2 A. It's:  
 3 "815 Bognor Regis. BW is potential seller, BT doc  
 4 sent 5/1, not yet returned".  
 5 Q. Yes. Whilst we are on that, the fifth dot down says:  
 6 "RR due 9/10."  
 7 Mr Dyson was unable to help us as to what that  
 8 meant. What does that mean?  
 9 A. I've no idea.  
 10 Q. Okay, fine. All right. So just back to your  
 11 paragraph 14, then. You say:  
 12 "As is usual when a share sale is proposed, the loss  
 13 prevention department commenced an audit into the store  
 14 company, here Bognor."  
 15 Do you see that?  
 16 A. Correct.  
 17 Q. Now, you have E3, you have page 812 and the business  
 18 transfer update goes through to page 823?  
 19 A. Correct.  
 20 Q. Who is doing the audit? Which person is doing the  
 21 audit?  
 22 A. I think, my Lord, effectively what's being said here is  
 23 that I received the instruction from Mr Dyson on  
 24 8 February, and because that was a very specific  
 25 instruction I forwarded that onto my team, and said

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1 "This is a specific concern, start investigating it".  
 2 In any case, when these documents arrived, again as is  
 3 normal process, these are automatically put across and  
 4 my instruction is ongoing that any new stores that  
 5 appear on this document that you would start looking  
 6 into. However, in this particular case, we had already  
 7 commenced that. So they would already have been looking  
 8 at that.  
 9 The reason for explaining this document is that, had  
 10 I not received any written instruction, in all  
 11 probability we would have looked at it through that  
 12 process in any case. So that's the difference between  
 13 the two.  
 14 Q. That's not what your witness statement says, is it? It  
 15 says:  
 16 "As is usual when a share sale is proposed, the loss  
 17 prevention department commenced an audit."  
 18 A. I appreciate it says "commenced", but we had in this  
 19 particular case commenced one anyway on the instruction  
 20 and we would have commenced it on the 28th, had we seen  
 21 a new store appear on this list.  
 22 Q. You would have done, all right. So actually your  
 23 investigation here actually arises solely from Mr Dyson  
 24 instructing you?  
 25 A. It's --

35

1 Q. It doesn't arise from anything else, in this particular  
 2 case?  
 3 A. Yes, that would be correct.  
 4 Q. Okay. So paragraph 14 of your witness statement needs  
 5 correcting, doesn't it, to say that:  
 6 "As is usual, when a share sale is proposed the loss  
 7 prevention department commenced an audit".  
 8 You didn't commence anything after 28 February, did  
 9 you?  
 10 A. It would be "would commence", I agree. "Would  
 11 commence".  
 12 Q. But in this case was already acting on Mr Dyson's  
 13 orders?  
 14 A. Correct.  
 15 Q. This audit that you commenced, when was it commenced?  
 16 A. I received the email, forwarded it on pretty much  
 17 straightaway, I believe. I think somewhere in here  
 18 there is my email on to Mr Barnes.  
 19 Q. Yes. Let's start the chronology, shall we, at page 761  
 20 in E3. (Pause) Do you see that?  
 21 A. I do.  
 22 Q. That's the email I think you are referring to, isn't it?  
 23 A. That's the email from Derek Dyson giving me the initial  
 24 instruction.  
 25 Q. Yes. Did you speak to Mr Dyson before that, informally

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1 perhaps, not documented, not minuted?  
 2 A. Not to my recollection.  
 3 Q. Where are you based?  
 4 A. I am based from home in Hull.  
 5 Q. Okay. How often do you speak to Mr Dyson, who is your  
 6 line manager, effectively, isn't he?  
 7 A. Relatively infrequently. He would be aware of the jobs  
 8 that we were dealing with, and I would speak to him  
 9 probably no more frequently than once a fortnight,  
 10 unless there was a specific job that I needed to speak  
 11 more frequently to him, but once a fortnight would be  
 12 generally at its most frequent.  
 13 Q. So if you go back to page 739, we see the same  
 14 attachment attached to an email a month earlier,  
 15 10 January. Not to you, to Mr Raines.  
 16 A. Yeah.  
 17 Q. Your evidence is that you had no discussions with  
 18 anybody about this matter, ie Mr Dyson?  
 19 A. Not to my recollection.  
 20 Q. Mr Raines?  
 21 A. No.  
 22 Q. Mr Ryan?  
 23 A. Not to my recollection, no.  
 24 Q. Surely Mr McAlindon, you are loss prevention, you are  
 25 the man that they would talk to first about this sort of

1 issue? By which I mean look at the 739, this is what  
 2 Mr Dyson was saying to Mr Raines on 10 January, second  
 3 paragraph:  
 4 "The current JVP borrowed the money from Helle, we  
 5 believe, and she is keen to ensure the share value is  
 6 high enough to recover her loan. Finally I understand  
 7 that her husband 'Godfrey' is now on the payroll at an  
 8 inflated salary and does not attend!  
 9 "If my memory is correct we had to stop him  
 10 submitting bills in the past for advice, training,  
 11 et cetera. See attachments."  
 12 That's the document that was sent to you later, do  
 13 you remember?  
 14 A. I -- yeah.  
 15 Q. "Can you get under the skin of this and develop a plan  
 16 to resolve and put her back in her box or an exit plan?"  
 17 Would you not agree with me that if the plan was --  
 18 I know it's a hypothetical -- to raise financial  
 19 irregularities as an issue, relating to payments to her  
 20 husband, you would be the person to speak to, wouldn't  
 21 you?  
 22 A. Yes, which tends to suggest that that wasn't the case  
 23 with this email.  
 24 Q. Or we don't see what's going on behind the scenes?  
 25 A. I think if there was a -- well, if there was any

1 interest in, or if anybody had taken a view that there  
 2 was a necessity to look at something fraudulent, it  
 3 would have come to me straightaway. At this stage,  
 4 clearly people's views haven't developed to an extent  
 5 that people viewed that as necessary.  
 6 Q. But this matter had already -- that is the matter of  
 7 Godfrey and the amounts he was invoicing -- been raised,  
 8 hadn't it?  
 9 A. Yes.  
 10 Q. And it had been concluded that there was no problem,  
 11 hadn't it?  
 12 A. Others had made conclusions.  
 13 Q. Pardon?  
 14 A. Others had made conclusions, but I wasn't involved in  
 15 them.  
 16 Q. So anyway, your evidence is, then, that you have  
 17 absolutely no knowledge of this issue, even, until the  
 18 8 February email, page 761?  
 19 A. Sorry, which issue?  
 20 Q. The issue of Godfrey, payments, her husband working or  
 21 not working, he is not in the store?  
 22 A. The first I became aware that there was a problem where  
 23 anybody believed that there was an underlying  
 24 possibility of dishonesty was when I received the email  
 25 from Mr Dyson on this page 761 on 8 February, and that

1 was the first instruction I had taken.  
 2 Q. Now, in paragraph 15 of your statement, you deal with  
 3 what appears to be what you are saying about this, you  
 4 say:  
 5 "Attached to Mr Dyson's email was an email from  
 6 Jez de Carteret, a member of the accounts team ..."  
 7 Do you see that?  
 8 A. I do.  
 9 Q. And you say:  
 10 "... whilst Mr de Carteret was conducting the  
 11 financial year end review."  
 12 Where do you get that information from? I am just  
 13 looking at his email, 762 in E3.  
 14 (Pause)  
 15 A. Sorry, can you repeat your question?  
 16 Q. Yes. How do you know what Mr de Carteret was doing to  
 17 come across this information back in August of 2010?  
 18 Remember, this is an email from six months earlier, not  
 19 February 2011.  
 20 A. Jez de Carteret in stores reporting is one of the people  
 21 who relatively frequently contacts us with queries in  
 22 relation to stores, and he does that when he is going  
 23 through a year end review process where he is looking to  
 24 finalise the accounts.  
 25 Q. Okay. So you have assumed he did it as part of that

1 task?  
 2 A. Yes.  
 3 Q. You have not spoken to him about it and asked him how he  
 4 came about it?  
 5 A. No, no, no.  
 6 Q. We are not going hear from him, are we?  
 7 A. Not that I am aware of.  
 8 Q. No, no, right. Now, were you made -- this is  
 9 August 2010, Mr de Carteret's email -- aware of what  
 10 Specsavers did about that email and Mr de Carteret's  
 11 concerns, as you put it?  
 12 A. No.  
 13 Q. You were not made aware?  
 14 A. The first I became aware of any of the communications  
 15 was when I received the pdf that was attached to  
 16 Derek Dyson's email giving me the initial instruction.  
 17 That was the first time I became aware.  
 18 Q. Were you not then also made aware of what the resolution  
 19 of that was? Shall I take you to page 734, just to  
 20 remind you what the resolution was? This is to  
 21 Mr de Carteret from Mr Rowe. So this is, as it were,  
 22 going back the other way. You recall that?  
 23 "Hi Jez, I have caught up with Mark Raines ref this  
 24 issue. We will not be taking action as the store is not  
 25 showing signs of financial difficulty and we believe

1 that both partners are aware. So in summary no action  
 2 being taken."  
 3 That's obviously very important, isn't it,  
 4 Mr McAlindon?  
 5 A. That's an email that I wasn't copied in on, I wasn't  
 6 aware of -- didn't know.  
 7 Q. You must have spoken to Mr de Carteret, you say he is  
 8 the source of your information that's concerning,  
 9 paragraph --  
 10 A. No, once we had received the -- I appreciate that other  
 11 people had, within the accounts teams and with the RST,  
 12 had had discussions about this. I received my  
 13 instruction from Derek Dyson, and our normal source into  
 14 Guernsey, which the accounts teams are huge, and are  
 15 regionalised, and there are so many different people  
 16 it's very difficult to know who to go to, depending on  
 17 what region the store is in. So we have one point of  
 18 contact in there, which is the compliance team of people  
 19 which accounts for two people, Martyn Kettlety and  
 20 Gavin De La Mare.  
 21 On receiving an instruction like this, we would go  
 22 straight to them to ask for any accounting information  
 23 that we would need. So I wouldn't necessarily have gone  
 24 to Jez de Carteret, I don't recollect ever having  
 25 a conversation with him, but I know that if we wanted

1 any information like invoicing or payroll, those were  
 2 the people that we would go and get information from.  
 3 So it wouldn't necessarily connect that I would have  
 4 become aware of Jez de Carteret's or Mike Rowe's  
 5 interventions prior to my instruction.  
 6 Q. So you don't think you did speak to Mr de Carteret? He  
 7 would surely have told you --  
 8 A. Not to my recollection, no.  
 9 Q. Okay.  
 10 A. He is not a person I have communications with, really,  
 11 on phone or via email particularly.  
 12 Q. So you have just given evidence a few minutes ago that  
 13 you were totally unaware that the Mr Vos payments  
 14 et cetera were even an issue prior to getting the  
 15 8 February email?  
 16 A. No, I wasn't.  
 17 Q. You were not aware --  
 18 A. I was not aware of any issues --  
 19 Q. -- that there had ever been an historic issue about  
 20 Mr Vos' payments?  
 21 A. No, I wasn't.  
 22 Q. So you weren't aware of what happened in 2010, which  
 23 I have just taken you to --  
 24 A. Sorry, which document was that?  
 25 Q. 734.

1 A. Yeah.  
 2 Q. "No further action".  
 3 A. Yeah, but I am not involved in any of that  
 4 communication.  
 5 Q. No. You are saying now that you weren't aware even that  
 6 Mr de Carteret had raised it in August, you weren't  
 7 aware at that time in August?  
 8 A. Yeah. Can you point me to his August communication?  
 9 Q. That's the one you are referring to, the email of  
 10 August.  
 11 A. Yes, well, I wasn't involved in that communication  
 12 email.  
 13 Q. Were you aware of the 2008 discussions with Mr Rowe  
 14 about invoicing and --  
 15 A. Can you show me that?  
 16 Q. Yes, we will have to go back a bundle, I think. If you  
 17 go to E2, probably an easy way to start would be at 330,  
 18 from Mr Rowe to the claimant, to Helle and Barry.  
 19 "Dear Helle and Barry", do you see it?  
 20 A. I do.  
 21 Q. We are at the end of February 2008?  
 22 A. Yeah.  
 23 Q. " ... need to organise a date ... have been contacted by  
 24 Guernsey with concerns over the invoicing from a company  
 25 Optimisation Healthcare."

1 A. Yeah.  
 2 Q. We have heard during the course of the trial that that  
 3 led then into a meeting in March 2008 at which the issue  
 4 of Mr Vos' payments arose?  
 5 A. (Witness nods)  
 6 Q. I don't know whether you were here for the beginning of  
 7 the trial?  
 8 A. Most of it.  
 9 Q. And you heard all of that. So all of that stuff in  
 10 2008, were you party or aware of that?  
 11 A. No, I wasn't in this communication either.  
 12 Q. No, that's right, I just wanted to get clear whether you  
 13 were aware of it?  
 14 A. No.  
 15 Q. No. So when all of that was being raised back in 2008,  
 16 you were head of loss prevention at that time, weren't  
 17 you?  
 18 A. I was.  
 19 Q. I think you started --  
 20 A. 14 years ago.  
 21 Q. -- 1999?  
 22 A. It's about 14 years.  
 23 Q. Yes. But it wasn't an issue that was raised on loss  
 24 prevention's radar at that time, 2008?  
 25 A. No.

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1 Q. So it all wasn't then seen as an issue of dishonesty,  
 2 fraud or anything at that time in 2008, otherwise you  
 3 would have been brought in, wouldn't you?  
 4 A. I think if that was the individual's perception,  
 5 I should have been brought in.  
 6 Q. Okay, so just back, then, to 2011, to get clear what you  
 7 are saying, 761, that's the first you have heard of it,  
 8 761, Mr Dyson is emailing you. Did you speak to him?  
 9 This is a very short email, but you could have had  
 10 a nice long chat about the plan here. Did you speak to  
 11 him at all?  
 12 A. Not to my recollection. I, you know, received the  
 13 instruction, it was fairly transparent to me where  
 14 Derek's concerns were coming from.  
 15 Q. Yeah.  
 16 A. So I merely, simply instructed my team to start having  
 17 a comprehensive look at it.  
 18 Q. Okay. You were not aware of the previous  
 19 correspondence?  
 20 A. From all the other people to --  
 21 Q. The ones I have just taken you to.  
 22 A. No.  
 23 Q. Then at page 765, the next day, you email your number  
 24 two, Mr Barnes, don't you?  
 25 A. Yeah.

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1 Q. You forward on Mr Dyson's email, and you say:  
 2 "I think we may have already looked at this. If so,  
 3 can you remind me? If not, can you get someone to do  
 4 the necessary?"  
 5 A. Correct.  
 6 Q. Now, given the answers you have just given to my  
 7 questions asking you whether you had any previous  
 8 knowledge of this matter --  
 9 A. Yeah.  
 10 Q. -- how is it that you are able to tell Mr Barnes that  
 11 you think that this has already been looked into?  
 12 A. At the time I was thinking of another store on the south  
 13 coast which again was another place I've never been to,  
 14 I hadn't been to Bognor at that time, there was another  
 15 store in the area that we had looked into not long  
 16 previously, sounded very similar, and I simply said,  
 17 "Make sure, before you commence this work, that the work  
 18 hasn't already been done".  
 19 Q. No, you didn't say that --  
 20 A. Well, that's what --  
 21 Q. You said, "I think we may have already looked at this"?  
 22 A. Yes, that's correct.  
 23 Q. "This" being the Bognor Regis issue raised about  
 24 Mr William Godfrey Vos' invoices and payroll?  
 25 A. Yeah, that's correct.

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1 Q. So you must have been aware of it, mustn't you?  
 2 A. No. I wanted to make sure, having thought about the  
 3 other store, for example, whether it be Bournemouth,  
 4 Bodmin, there are a number of stores that if you have  
 5 not been to, it's not difficult to think "hang on  
 6 a minute, something sounding like on the south coast,  
 7 have we done any work there?", I wanted to make sure --  
 8 the work involved in this is substantial, it doesn't  
 9 just affect my own team and the work they do, but it  
 10 also affects people in Guernsey, who would have to go  
 11 and pull all the records for us. I wanted to make sure  
 12 before we did it that this wasn't a store we had looked  
 13 at before and gone through this process before.  
 14 Q. Even if you had read Mr Dyson's note, page 762, to go  
 15 back, Mr Dyson scrawled a note for the person who was  
 16 sent this three-page document, do you remember?  
 17 A. Yeah.  
 18 Q. So this was on what was sent to you by Mr Dyson, do you  
 19 remember?  
 20 A. Yes.  
 21 Q. He has written and signed his name "Derek" at the top?  
 22 A. Yeah.  
 23 Q. You presumably recognise his handwriting?  
 24 A. I do.  
 25 Q. You must do. It says:

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1 "Previous correspondence on the issue, which is  
 2 concerning, why no action?"  
 3 A. Yeah.  
 4 Q. Do you see that?  
 5 A. Yeah.  
 6 Q. So SOG was well aware that there had been previous  
 7 correspondence on this issue?  
 8 A. Absolutely, and I shared Derek's concerns in that, when  
 9 I read these emails, I couldn't understand why from the  
 10 day that they were identified people hadn't referred it  
 11 to us, as would be normal practice. It was one of those  
 12 things where individuals had made a decision to try and  
 13 resolve issues with the partners, but I understood why  
 14 Derek was asking the questions. So I realised when  
 15 I received this that there was a degree of history, but  
 16 I didn't realise whether or not we had actually done the  
 17 data mining, the analysis, the trawling of records  
 18 ourselves, and were we going to duplicate it and cause  
 19 unnecessary work. My observation to Mr Barnes was  
 20 simply: make sure that you check that you haven't  
 21 already done any of this work before we embark on doing  
 22 it again, purely from a cost point of view.  
 23 Q. But you would have been aware, surely, that  
 24 Mr de Carteret had dealt with it, Mr Rowe had dealt with  
 25 it, Susannah Hart, the head of --

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1 A. I was only aware of the discussions that were in these  
 2 pieces of paper. I had no -- I've spoken to  
 3 Susannah Hart a handful of times in five, ten years.  
 4 Jez de Carteret I can't ever recollect having  
 5 a conversation with --  
 6 Q. What about Mr Raines?  
 7 A. He is one of -- I can't ever recollect having  
 8 a conversation with Jez de Carteret because he is one of  
 9 hundreds of people that work within the accounts teams.  
 10 As I said, I normally deal with people from the  
 11 compliance side who co-ordinate for us with the rest of  
 12 these people. Sorry, you were going to?  
 13 Q. Mr Raines, looking at 734, the people who seem to have  
 14 decided that no action was going to be taken because  
 15 there was no problem with this issue, were  
 16 Mr de Carteret, Mr Rowe; have you spoken to him about  
 17 it?  
 18 A. No.  
 19 Q. Mr Rowe was reporting to Mr de Carteret:  
 20 "I have caught up with Mark Raines ref this issue."  
 21 So Mr Raines, the director.  
 22 A. Correct.  
 23 Q. He seems to have been well aware of the issue?  
 24 A. But as I have said and explained, I was aware that there  
 25 were communications that had gone on and discussions as

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1 to the rights and wrongs of this, purely from those  
 2 documents. It didn't alter my view that my instruction  
 3 was clear: "look into it properly and diligently, and  
 4 make a considered view on all of the evidence that you  
 5 can get in the normal way." And that's what we did.  
 6 Q. That's what you did. You did that by this audit that  
 7 you are describing, is that right, as you referred to  
 8 it?  
 9 A. Yeah.  
 10 Q. We are at paragraphs 16, 17, 18 of your witness  
 11 statement here. Do you see that? Let's just see how  
 12 in-depth and accurately --  
 13 A. Sorry, can I just read this?  
 14 Q. Yes, do, please. (Pause).  
 15 A. Okay.  
 16 Q. Now, if you go to page 767 -- keep your witness  
 17 statement open -- what actually happens is that the next  
 18 day, the 10th, your number two, Mr Barnes, instructs  
 19 Mr Walls, Ben Walls, to do the audit "today please or  
 20 first thing tomorrow at the latest!" do you see that?  
 21 A. Correct.  
 22 Q. So that would be 10 or 11 February?  
 23 A. Correct.  
 24 Q. Mr Dyson wants something done, you do it now?  
 25 A. No, we regularly do background data mining through all

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1 stores' history for a whole range of jobs. However,  
 2 when somebody sends an instruction where there is  
 3 an inference that large sums of money to do with  
 4 invoicing are done, it goes in a priority scale. At  
 5 that time, that would have been the more serious case  
 6 potentially than the ones that Ben Walls was examining,  
 7 hence why it went to the top of his list.  
 8 Q. No, no, look, this is a little run of emails, and I have  
 9 already taken you to the first two. Mr Dyson emails you  
 10 "we have a strong suspicion that the husband of  
 11 Helle Poulsen, William Godfrey Vos, is on the payroll?"  
 12 A. Sorry, which page is that?  
 13 Q. Page 768. We have seen it before but I am just doing it  
 14 in this run of emails so we can see the string.  
 15 "Allegedly he is on a big salary, nobody is sure of  
 16 what he does, can you do the desktop research ..."  
 17 A. Yeah.  
 18 Q. "... and confirm the size of the problem, if we have  
 19 one. We can then agree next steps."  
 20 You then say to Mr Barnes, bottom of 767:  
 21 "I think we have already looked at this. If so, can  
 22 you remind me? If not, can you get somebody to do the  
 23 necessary?"  
 24 A. Yeah.  
 25 Q. Then Mr Barnes, the next day, tells Ben:

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1 "Get on with it now, it's urgent."  
 2 A. Yeah.  
 3 Q. Mr Dyson --  
 4 A. Urgent or important.  
 5 Q. There is nothing particularly important about it, is  
 6 there, other than that Mr Dyson has requested it and he  
 7 is the director of everything?  
 8 A. Yeah, okay.  
 9 Q. I suggest to you that Mr Dyson was wanting you to get on  
 10 and do it?  
 11 A. No, Mr Dyson was making a request to do desktop research  
 12 and compile a report and reply back to him.  
 13 Q. Are you sure you didn't speak to him about this at the  
 14 time?  
 15 A. I have no recollection of speaking to him at the time,  
 16 and I wouldn't have a conversation with him about this  
 17 until we had actually looked at the facts and got the  
 18 facts.  
 19 Q. Where is the audit/report that Mr Walls did on the 10th  
 20 or 11th?  
 21 A. I believe it's somewhere in the bundle, if you could  
 22 give me an indication.  
 23 Q. No, here we are at 7 -- the next document is a letter  
 24 that has nothing to do with the report.  
 25 A. Could you point me to where it is in my statement?

1 Q. Yes, in your statement, you see, the next thing that  
 2 happens is, paragraph 17:  
 3 "On 21 February, Mr Walls emailed a summary to me."  
 4 A. Yeah.  
 5 Q. That, I think, is page 779. I say "that is". That's  
 6 not, of course, that is an email to Mr Walls from  
 7 a Mr Kettlety.  
 8 A. Correct.  
 9 Q. That's not the audit, not his report, it's not even his  
 10 summary?  
 11 A. No.  
 12 Q. So where is the email to you of 21 February sending you  
 13 presumably a draft of his report for you to discuss?  
 14 A. That's on page 803, where Ben Walls emailed me on  
 15 23 February --  
 16 Q. That's two days later, Mr McAlindon.  
 17 A. Sorry, can you go back over that again --  
 18 Q. Yes, paragraph 17, we have nothing within the loss  
 19 prevention department after Mr Barnes tells Mr Walls to  
 20 do it "today or tomorrow!", first thing, on  
 21 10/11 February. We then have nothing, certainly nothing  
 22 to you, until 23 February:  
 23 "As requested, thanks, Ben."  
 24 A. Clearly what's happened here is Mr Walls had contacted  
 25 the accounts team, asked for the information that he

1 felt he needed. When that work had eventually been done  
 2 in Guernsey, the documents were emailed by  
 3 Martyn Kettlety to Ben Walls, Ben Walls has then  
 4 compiled this summary report and finally emailed them to  
 5 me.  
 6 Q. On the 23rd? Are you sure he didn't email to you on the  
 7 21st perhaps a preliminary draft that we haven't seen?  
 8 A. What are you referring to?  
 9 Q. I am referring to your paragraph 17 of your witness  
 10 statement, Mr McAlindon:  
 11 "On 21 February Mr Walls emailed a summary to me."  
 12 I would like to see this summary that he emailed to  
 13 you on the 21st.  
 14 A. No, the reference to the 21st is the invoices that were  
 15 provided by Martyn Kettlety to Ben Walls, which is --  
 16 Q. That's not to you, is it?  
 17 A. No, but the inference is there that the invoices, which  
 18 were provided to Ben, on the 21st, which is at page 779,  
 19 and contains a subsequent document, were then used to  
 20 compile his report.  
 21 Q. I am going to suggest to you --  
 22 A. And I received his report on page 803, which is  
 23 23 February.  
 24 Q. That's the final version of his report. I am going to  
 25 suggest to you that you had a bit more input into this

1 investigation summary than simply sending one email to  
 2 Mr Barnes and then two weeks later getting an email from  
 3 Mr Walls?  
 4 A. I don't think that's the case.  
 5 Q. So are you saying --  
 6 A. I have no recollection of --  
 7 Q. You have no recollection?  
 8 A. I had no earlier reports from Ben Walls, other than this  
 9 one.  
 10 Q. Did you discuss the matter with your junior member of  
 11 staff, Mr Walls?  
 12 A. No, if I was going to have discussed it with anybody,  
 13 I would have discussed it with Phil Barnes.  
 14 Q. Okay, did you discuss it with Mr Barnes?  
 15 A. Not to my recollection.  
 16 Q. Are there any emails within the loss prevention team or  
 17 any documents generated by the loss prevention team  
 18 between 10 February and this version of the  
 19 investigation report which is sent to you on  
 20 23 February?  
 21 A. If there is nothing in the disclosure, no, there isn't.  
 22 Q. So you say all of the contents of the investigation  
 23 summary which starts on page 804 and goes through to  
 24 page 811, you say that's all Mr Walls?  
 25 A. That's Mr Walls' report on his initial findings.

1 Q. The wording is his?  
2 A. Yes.  
3 Q. How old is Mr Walls?  
4 A. Sorry?  
5 Q. How old is he?  
6 A. I don't actually know.  
7 Q. Roughly?  
8 A. Probably early to mid-30s, I would have thought.  
9 Q. How long has he been doing this job?  
10 A. I think he has been in the department over ten years.  
11 MR STUART: My Lord, I am going to ask about this document  
12 now, it's obviously an important document. I wonder if  
13 it's an appropriate moment for the shorthand writers to  
14 have a break?  
15 MR JUSTICE HILDYARD: Yes. Just after half past, then.  
16 (11.24 am)  
17 (A short break)  
18 (11.35 am)  
19 MR STUART: Mr McAlindon, I want to ask you then about this  
20 investigation summary report, it starts at page 804. Do  
21 you see it?  
22 A. Yes.  
23 Q. First of all, perhaps you could help me, at the top of  
24 each page just under the numbering there is a sort of  
25 black block. Has something been blocked out there?

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1 A. I've no idea.  
2 Q. Do you recall when you saw the report --  
3 A. No.  
4 Q. -- when it was sent to you, did it have this funny black  
5 block on it?  
6 A. Not to my recollection.  
7 Q. So you don't know what that is obliterating?  
8 A. I've no idea.  
9 Q. Okay. Your summary of what you say is in this report  
10 starts at paragraph 19 of your witness statement. So  
11 perhaps have that open simultaneously with the report.  
12 You say:  
13 "The summary noted a number of matters which raised  
14 concerns."  
15 Is that concerns to Mr Walls or concerns to you?  
16 What do you mean by your sentence there?  
17 A. I think we would have shared the concerns.  
18 Q. Shared the concerns, okay, so his initial concerns and  
19 then he is sharing them with you, and you are --  
20 A. And I concurred with his concerns.  
21 Q. Okay. You say:  
22 "It was noted that Mr Vos has been employed as  
23 a part-time 24 hours per week practice manager."  
24 Where did it say that?  
25 A. I don't think it does, I think it just says --

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1 Q. It doesn't say that, does it, Mr McAlindon?  
2 A. No, no, it says he is an employee. Sorry, just -- can  
3 I just read it, please?  
4 Q. Yes. Don't worry, I am going to take you through it  
5 number by number. So if you come across it anywhere  
6 that says "part-time", which take it from me, you won't,  
7 but you can point it out to the court.  
8 Let's just get it clear. Paragraph 6:  
9 "Dr Helle Poulsen believed to be in a relationship  
10 (husband/partner) with William Godfrey Vos."  
11 It's making it sound all very cloak and dagger?  
12 A. It's a simple statement.  
13 Q. It's not "believed to be", is it? Everyone knew that  
14 Godfrey Vos was Helle Poulsen's husband. Surely  
15 everyone at Specsavers Group knew that?  
16 A. That's Ben's choice of language, I don't think there is  
17 anything sinister in it. It is simply the way that he  
18 chose to describe that.  
19 Q. Okay. 8:  
20 "William Godfrey Vos is recorded on the payroll as  
21 the practice manager with a basic salary of 36,180. The  
22 payroll also records a Mrs Sarah Scott as the practice  
23 manager. Sarah Scott has a basic salary of 32,201.  
24 So his salary is £3,800 more than her salary; yes?  
25 A. Correct.

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1 Q. Are you suggesting that that's a matter of concern?  
2 A. No.  
3 Q. Did you know that she reported to him?  
4 A. No, I think the concern is the size of both salaries.  
5 I think the -- Ben's point of including that in the  
6 record is that, in the top team structure there is  
7 a salary range for store managers which I believe,  
8 although I couldn't say for categorically, runs  
9 somewhere between 24 and 32 for a full-time manager. So  
10 I think that his reasons for including that in there is  
11 that that's not consistent with that pay structure, and  
12 that's why he has included it.  
13 Q. Why not? She is the store manager, she is on that  
14 32,000 figure?  
15 A. Yeah.  
16 Q. He is her line manager, he is above her?  
17 A. He is including it simply because it's unusual.  
18 Q. It's not particularly concerning, is it, if a man who  
19 has overall control of the whole retail side of that  
20 store, turning over £1.5 million a year, has a basic  
21 salary of £36,000? That's not concerning, is it?  
22 A. It is concerning if it's inconsistent with any other  
23 payroll that he would have reviewed and any other salary  
24 bands that he would have reviewed. So it is  
25 an exceptional salary by comparison to the norm, and

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1 he's reporting it because he views it as outside of the  
 2 norm.  
 3 Q. Does he say that?  
 4 A. No, but that's why he would be including it, because his  
 5 judgment is based on his understanding of having  
 6 reviewed lots of salaries and having seen many managers'  
 7 salaries, and knows roughly what boundaries they are in,  
 8 if it's above the norm he would include it in his  
 9 report.  
 10 Q. Right.  
 11 A. Because to that, in that respect, it's significant to  
 12 him.  
 13 Q. But one would need to know what the person is doing, you  
 14 would need to know their role, their job description,  
 15 before assessing whether that was an unusually high  
 16 salary or not?  
 17 A. I don't think so.  
 18 Q. No?  
 19 A. I think it's not unreasonable to draw a conclusion based  
 20 on your experience of what the norm is in stores across  
 21 the estate.  
 22 Q. If you don't know what the person's role is, how can you  
 23 know what the norm is?  
 24 A. All he is saying is that they are being paid those  
 25 salaries, he is not drawing a conclusion or inference

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1 from it, he is highlighting that it's unusual.  
 2 Q. What is the norm for a practice manager?  
 3 A. As I said, I don't actually know, but I understand it to  
 4 be somewhere in the brackets of 24 to 30 in the top team  
 5 structure.  
 6 Q. No, that's the store manager.  
 7 A. Yes.  
 8 Q. I've asked you about the practice manager?  
 9 A. I don't know. I don't know the differentiation between  
 10 them.  
 11 Q. Right. Paragraph 9 of his report:  
 12 "Historical payroll information from June 2010 to  
 13 January 2011 records the following."  
 14 Well, that's not right, is it? It's all not right,  
 15 is it?  
 16 A. In what respect?  
 17 Q. That purports to be six months' worth of income records.  
 18 Dr Poulsen, £212,000?  
 19 A. No, it would appear that he --  
 20 Q. Mr Weller, 141, Mr Vos, 115.  
 21 A. Yeah.  
 22 Q. That's not right, is it?  
 23 A. No, it appears that Ben has made a mistake in his  
 24 reporting of it.  
 25 Q. Okay. Did you recognise that mistake when you --

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1 A. I can't honestly recollect.  
 2 Q. Did you consider this report carefully, Mr McAlindon?  
 3 It is an important report, isn't it?  
 4 A. It is an important report, and having received the  
 5 report, I discussed it with both Phil Barnes, who was  
 6 involved in that he had discussions with Ben Walls, and  
 7 also Ben Walls. The fact that there is a mistake after  
 8 we discussed the evidence that they obtained both in  
 9 relation to probably more so the overtime payments than  
 10 the salary itself, but also the invoices from  
 11 Mr Ferguson, gave me cause for concern that I felt that  
 12 we needed to do an investigation. Is there a mistake in  
 13 the way that he's reported that information? I don't --  
 14 I wouldn't disagree with that at all. But it is  
 15 a mistake.  
 16 Q. I asked you whether you recognised it when you allegedly  
 17 considered this?  
 18 A. I don't know whether I did, and I may well have focused  
 19 more on the invoices and the overtime payments than  
 20 I did that level of detail. I don't know.  
 21 Q. Paragraphs 10, 11, 12 seem to be setting out where they  
 22 live. Since they are husband and wife not surprisingly  
 23 they live in the same house together; yes? And the fact  
 24 that they are directors of companies; yes? Including of  
 25 course Optimisation Healthcare; yes?

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1 A. Well, you referred to paragraph 10 initially and I can  
 2 only assume why Ben had included this paragraph in his  
 3 report, because the payroll records indicate that Mr Vos  
 4 lives at one address, and the electoral records show  
 5 that he lives with Dr Poulsen at a neighbouring address.  
 6 Ben would have included that, I would guess, because he  
 7 felt that the payroll record in that respect was  
 8 slightly misleading.  
 9 Q. Okay. No suggestion that this is a matter seriously  
 10 concerning you?  
 11 A. In conjunction with the other concerns that he had with  
 12 payroll, both in relation to the salary but probably  
 13 more significantly in relation to the overtime payments,  
 14 the fact that a neighbouring address is put down on the  
 15 payroll records, to Ben would have been a significant  
 16 alert. He would have recognised that as something that  
 17 he found suspicious.  
 18 Q. You don't seem to mention it in your witness statement,  
 19 Mr McAlindon, as being in any way significant, let alone  
 20 serious, as you have just put it?  
 21 A. No, I don't refer to it, I --  
 22 Q. All right.  
 23 A. I'll take your word that I don't refer to it in my  
 24 statement.  
 25 Q. Then we have 11 and 12, the common directorships and the

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1 different directorships. Then we are really going back  
 2 into the history, aren't we? At 13 we have the WG Vos  
 3 Accountancy Services invoices back from 2005 to 2009;  
 4 yes.  
 5 A. Correct.  
 6 Q. And W Godfrey Vos fasa Accountancy Services is a trading  
 7 name of Optimisation Healthcare Group Limited, that's  
 8 number 14?  
 9 A. Correct.  
 10 Q. Then 15, invoices back from 2006 to 2008, this was all  
 11 the stuff that was covered by Mr Rowe in his 2008  
 12 meeting with them, wasn't it?  
 13 A. I believe so, yes.  
 14 Q. Over the page, we have details for Optimisation  
 15 Healthcare, we have invoices to Godfrey Vos FASA, and  
 16 the Finestone matter. And then we have 18, those  
 17 invoices again. 19 -- we are really going back into  
 18 history now, aren't we, this is ten years ago back at  
 19 Worthing, 13,500 invoices back between 2001 and 2005?  
 20 A. Correct.  
 21 Q. This is all just general background, is it? This is  
 22 nothing particularly relevant?  
 23 A. No, I believe so, general background.  
 24 Q. Just general background. Okay, fine.  
 25 20, invoices examined record general day-to-day

1 management issues, so these are obviously all his  
 2 invoices before he went on the payroll?  
 3 A. I believe so, yes.  
 4 Q. "General day-to-day management issues and general  
 5 administration. The described work recorded on the  
 6 invoice should be undertaken by the store without the  
 7 requirement of an external resource."  
 8 Whose opinion is that?  
 9 A. That would be Ben Walls' opinion.  
 10 Q. Okay. Why is he raising opinions in an investigation  
 11 summary about matters, historic matters which have  
 12 already been dealt with?  
 13 A. Because at the time Ben Walls would have been completely  
 14 unaware that those communications had taken place, he  
 15 would have been unaware of all of that, I think his  
 16 reason for raising it is that, having been in the  
 17 department for over ten years, Ben has a good  
 18 understanding of what normal practice is in stores. In  
 19 terms of when he investigates and looks into accounts,  
 20 he would see what is usual and what's unusual. And he  
 21 also is aware of the fact that consultancy services are  
 22 not something that are employed by stores. So when he  
 23 sees consultancy services employed by stores, he would  
 24 find that unusual, and therefore report on it and have  
 25 an opinion on it.

1 Q. I perhaps ought to have got it clear with you: what  
 2 sources of information do you say that Mr Walls had?  
 3 A. In respect of paragraph 20, he's referring --  
 4 Q. No, for the whole thing.  
 5 A. Sorry, say that again.  
 6 Q. What sources of information do you say Mr Walls had?  
 7 Take paragraph 6 as an example:  
 8 "Dr Helle Poulsen, believed to be in a relationship  
 9 with (husband/partner) William Godfrey Vos."  
 10 You are not suggesting that's some sort of computer  
 11 record you have of that?  
 12 A. I think that's the language in which he chose to include  
 13 in his report, and it may be, and I am guessing, that he  
 14 drew that conclusion from the fact that when he had done  
 15 the checks on the addresses he recognised that Mr Vos'  
 16 address on payroll was at one address and his address on  
 17 the electoral roll was different. So it's a way that  
 18 Ben chooses to describe it, but I don't think there is  
 19 anything unusual in it, he is reporting facts that he  
 20 believes to be of interest.  
 21 Q. All of this is interesting investigation stuff if you  
 22 didn't know the true facts of the matter, but if you had  
 23 just spoken to Mr Rowe, for example, the area manager  
 24 for that store at all material times, he would have  
 25 known -- Ben Walls would have known rather a lot more

1 about this situation, wouldn't he?  
 2 A. But Ben would have been entirely unaware of all those  
 3 communications, and --  
 4 Q. Why not just call Mr Rowe up or email him?  
 5 A. Because Mr Rowe is one of a large number of people  
 6 employed in the RST, they do move over and cross regions  
 7 fairly frequently, knowing who to call is a challenge at  
 8 times, and Ben is drawing his conclusions from the  
 9 factual audit trail that he is pulling together from the  
 10 payroll system, from the invoice system, and from the  
 11 sources open and available on the internet. He's  
 12 drawing conclusions from the facts that he has.  
 13 Q. Then we have paragraphs about things on the invoices,  
 14 these are the invoices back in 2006 and 2007.  
 15 A. Sorry, where are you referring to?  
 16 Q. I'm at paragraph 21 of his summary.  
 17 A. Yeah.  
 18 Q. All about the old stuff with Optimisation Healthcare is  
 19 at 22 and 23, and 24:  
 20 "Other Optimisation Healthcare Group Limited  
 21 invoices record general expense claims that should have  
 22 been submitted and paid through Guernsey."  
 23 Whose do you say is that opinion?  
 24 A. Sorry?  
 25 Q. Whose opinion is that?

1 A. I think that was Ben Walls' opinion on the basis of what  
2 he read from the invoices, and --  
3 Q. And --  
4 A. Sorry.  
5 Q. Go on.  
6 A. That would be his view from his interpretation of the  
7 expense policy. We regularly, you know, review  
8 expenses, it's part and parcel of what he does as well,  
9 so that he has a reasonably good understanding of the  
10 expense policy and what stores should do in terms of  
11 compliance from a tax point of view. So having seen  
12 expenses in a different way, he would recognise that  
13 actually they should be compliant with the expense  
14 policy and not on an invoice from another company. So  
15 he would report it as being unusual.  
16 Q. The fact that it had all been dealt with in detail in  
17 2008 doesn't appear anywhere on your systems?  
18 A. No, not at all.  
19 Q. Okay. Over the page, we are now into the historic  
20 invoicing relating to Finestone for that period, do you  
21 remember?  
22 A. Mm.  
23 Q. Then we have the details of Finestone and Optimisation  
24 For Your Eyes Only, going back to 2000, Parkside  
25 Management, then --

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1 A. Sorry, where are you?  
2 Q. I'm on page 809. We just have basically companies of  
3 which Dr Poulsen is a director, and you have all their  
4 details off the -- or Mr Walls has got their details --  
5 A. Yeah.  
6 Q. -- and inserted them here?  
7 A. Yeah.  
8 Q. Finestone Finance, Mr Vos linked with the following  
9 dissolved companies, and then we get to the last page,  
10 811 we are on now, 38:  
11 "Specsavers Bognor Regis accounts also record  
12 payments totalling 61,000 to John Ferguson for the three  
13 years 2006 to 2009."  
14 Do you see that?  
15 A. Correct.  
16 Q. "It is worth noting that the same John Ferguson was the  
17 signed witness when Helle Poulsen signed the JVA.  
18 Invoices were extracted from DB web query ..."  
19 Is that database?  
20 A. Correct.  
21 Q. "... and examined. Invoices for maintenance et cetera",  
22 so he had a look at the old invoices from 2006 to 2009?  
23 A. Yeah.  
24 Q. At 42:  
25 "19 of the 35 record the repair of a leak, whether

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1 to the roof, the ceiling, the toilets, the lab,  
2 et cetera and 18 general decorating."  
3 This is over the three-year period 2006 to 2009; do  
4 you see that?  
5 A. I assume that's correct.  
6 Q. Well, that's what it says, isn't it?  
7 A. Yeah.  
8 Q. "Other concerns, descriptions recorded for the work  
9 carried out include sorting and boxes customer files,  
10 taking to storage facility, moving Christmas  
11 decorations, searching for a patient file, collecting  
12 old equipment, et cetera."  
13 Do you see that?  
14 A. I do.  
15 Q. "In [September] 2009 John Ferguson was set up on the  
16 SEP."  
17 A. Sorry, October 2009.  
18 Q. Sorry:  
19 "... October 2009, John Ferguson was set up on the  
20 SEP [Self-Employed Professional] system. This system is  
21 to process self-employed optoms."  
22 Do you see that?  
23 A. I do.  
24 Q. Now, in relation to that, in your statement,  
25 paragraph 25 we have got to, I think; yes?

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1 A. Correct.  
2 Q. You say there:  
3 "In October 2009, Mr Ferguson had been added to the  
4 SEP system as a 'laboratory technician'.  
5 A. Yes.  
6 Q. Where do you get that from?  
7 A. Can you point me to the invoices themselves?  
8 Q. It will probably assist you even more, page 779,  
9 payments made to Ferguson have been coded to technician,  
10 not laboratory technician, but technician.  
11 A. Yeah.  
12 Q. The SEP invoices ... (Pause) I think we see those at  
13 E7, page 1700. They start at page 1739 and they go all  
14 the way through to page 1759-3. Do you see in the box  
15 about a third of the way down, just next to the first  
16 holepunch, on each one it says "Technician"?  
17 A. Yes, I accept that.  
18 Q. There is no suggestion that anybody is calling him  
19 a laboratory technician?  
20 A. No. The reason why my statement says "laboratory  
21 technician" is simply that the only technicians we  
22 employ in stores are technicians that work in the lab,  
23 per se, they are laboratory technicians. We don't  
24 employ electrical technicians, lighting technicians, any  
25 other form of technician. We employ laboratory

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1 technicians, so I don't think it's unreasonable  
 2 referring to it as a laboratory technician.  
 3 Q. It's very misleading, isn't it?  
 4 A. I don't think it's misleading at all, because we don't  
 5 employ any other technicians in the business apart from  
 6 laboratory technicians.  
 7 Q. He is not an employee, Mr McAlindon. Self-employed  
 8 professional.  
 9 A. We don't employ locum people other than laboratory  
 10 technicians. A technician is a laboratory technician.  
 11 Q. Okay, just in relation to the Mr Ferguson point,  
 12 page 811 is all of Mr Walls' findings, isn't it,  
 13 paragraph 38?  
 14 A. Sorry, which bundle are you referring to?  
 15 Q. Back in E3. You can put E7 away, if you want, to make  
 16 a bit of space.  
 17 A. Sorry, which page?  
 18 Q. 811 we were on.  
 19 A. Yes.  
 20 Q. So there is nothing about Mr Ferguson until  
 21 paragraph 38. It finishes at paragraph 47. I say it  
 22 finishes; was there anything further beyond this? This  
 23 report just seems to stop.  
 24 A. Not that I am aware of.  
 25 Q. No, so there is no sort of conclusion or summary or

1 anything?  
 2 A. No, he is reporting the facts as he sees them.  
 3 Q. Yes. So he set out -- well, I've taken you through it,  
 4 38, 39, he signed. 40, set out the invoices. 42 he  
 5 says what the invoices are about, leaks and decorating.  
 6 43 there are other things. 44 he is set up on the SEP.  
 7 45 a further 31,000 has been processed, that would be  
 8 for the last 20 months, wouldn't it? 18 months?  
 9 A. I am not sure, I would assume so.  
 10 Q. We are going from October 2009, I think what he is  
 11 saying here, it is October 2009 onwards, so through to  
 12 2011?  
 13 A. I wouldn't dispute that.  
 14 Q. Yes. Scanned invoices were obtained from Cirrus House.  
 15 What's Cirrus House?  
 16 A. Cirrus House is our finance offices in Nottingham, where  
 17 a lot of the finance people are.  
 18 Q. Okay. All invoices have been signed by Godfrey Vos. So  
 19 that's what Mr Walls said about Mr Ferguson's invoices?  
 20 A. Correct.  
 21 Q. Let's turn to what you say he said, as I understand it,  
 22 you say this is his summary, not yours. Paragraph 24,  
 23 I think you start. Do you see at the bottom of page 57  
 24 of the bundle, four lines from the bottom:  
 25 "It seemed implausible that the store genuinely

1 required handyman type repairs and maintenance worth  
 2 61,000 over a four-year period."  
 3 Implausible to whom? Not to Mr Walls?  
 4 A. Both to Mr Walls, Mr Barnes and myself.  
 5 Q. Where does it say that in Mr Walls' report?  
 6 A. He doesn't say it.  
 7 Q. No.  
 8 A. He doesn't draw any conclusions.  
 9 Q. No.  
 10 A. And I don't think that -- yes, he doesn't draw any  
 11 conclusions.  
 12 Q. No.  
 13 "This was vastly disproportionate in comparison to  
 14 other sites."  
 15 You hadn't done that?  
 16 A. That's on the basis of the fact that, again we have been  
 17 here for 14 years, Ben has been here ten years, Phil is  
 18 equally long serving, and we have done plenty of  
 19 investigations and we looked through accounts on  
 20 a regular basis, and having looked over accounts on  
 21 a regular basis for many years you get a good  
 22 understanding of what the norm looks like in either  
 23 a small, medium or large store, and the volume and the  
 24 amounts were extraordinarily unusual compared to the  
 25 norm. So that's where my opinion comes from.

1 Q. None of it in this report, none of that in your report  
 2 here, is it?  
 3 A. Sorry?  
 4 Q. None of that, what you have just said, is in your  
 5 report?  
 6 A. It says that my conclusion is it seems implausible that  
 7 the store genuinely required maintenance worth 61,000  
 8 over a four-year period. You are asking me why,  
 9 I explained why, to me it's implausible.  
 10 Q. And I am asking you: none of that is recorded anywhere  
 11 in your report, is it?  
 12 A. No.  
 13 Q. So this report goes out, 23 -- to you, 23 February?  
 14 A. I take your word for it, yes.  
 15 Q. No, I take your word for it.  
 16 A. Can you point me to the document?  
 17 Q. Yes, page 803 and your witness statement, paragraph 17.  
 18 A. Yeah, 23rd, that's correct.  
 19 Q. So you receive that. Now, do you have a -- let's take  
 20 it in stages -- meeting about that or a conversation  
 21 with Mr Barnes and Mr Walls, or either of them?  
 22 A. I can't recollect, but I would probably have had  
 23 a telephone conversation with them.  
 24 Q. Any notes of any conversations or meetings between you  
 25 and Mr Barnes and Mr Walls about this investigation?

1 A. I would have only had a telephone conversation with  
2 them.  
3 Q. Nobody made any notes?  
4 A. No, the notes are in the report.  
5 Q. No, no, I am asking conversations about the reports?  
6 A. I never make notes of phone calls.  
7 Q. What about Mr Barnes and Mr Walls?  
8 A. They wouldn't make notes of phone calls.  
9 Q. No emails passing between you?  
10 A. All the emails have been disclosed. There is no more  
11 emails than those that have been disclosed.  
12 Q. Okay. You can put away E3 now, because that's the end  
13 of that part of the chronology, and take out E4. We are  
14 trying to get the sequence, you see?  
15 A. I understand that.  
16 Q. Trying to find some evidence of a sequence of events.  
17 In your witness statement, we go from the end of  
18 your summary of Mr Walls' report, which is at the end of  
19 paragraph 25 on page 58. Do you remember I just took  
20 you to the point that you seemed to have created the  
21 laboratory point?  
22 A. Yes.  
23 Q. Leave that to one side, that's the end of your analysis  
24 of the report in your statement. Then:  
25 "From the summary, it was clear to me that whilst we

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1 did not have the full picture yet there was certainly  
2 sufficient information to warrant a full investigation  
3 into the store."  
4 Do you see that?  
5 A. Yeah.  
6 Q. "If the information that Mr Walls had uncovered to date  
7 was true ..."  
8 What do you mean by that, how could it not be true,  
9 it was straight off the database, internet, it's just  
10 copies of invoices?  
11 A. I understand the point. It's the way I've described it  
12 in a sentence. It was a question of fact, and our  
13 interpretation of the fact, our interpretation of the  
14 facts may have been wrong when we were subsequently in  
15 store in front of the people and they gave us an  
16 explanation for it.  
17 Q. If you had called Mr Rowe --  
18 A. As much as they are questions of fact, we hadn't got  
19 individuals' explanations of it, so until you have got  
20 their explanations, you wouldn't assume that you are  
21 right.  
22 Q. If you had called Mr Rowe, the area manager, and asked  
23 him about the main issues that you were concerned about,  
24 Mr Vos, Optimisation Healthcare, Finestone, et cetera,  
25 he would have told you "we have been through all of

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1 this".  
2 A. He may well have done.  
3 Q. He probably would, wouldn't he, because even as --  
4 A. I accept your point.  
5 Q. Even in October 2010, so just a few --  
6 A. I accept your point, he may well have done.  
7 Q. If you had asked Mr Raines, he too would have given you  
8 the same answer that he gave Mr Rowe --  
9 A. No relation to those invoices that were discussed, they  
10 may well have done.  
11 Q. Anyway, you say:  
12 "If the information that Mr Walls had uncovered to  
13 date was true and our suspicions turned out to be  
14 correct, then it appeared that the claimants had  
15 fraudulently and/or dishonestly permitted £200,000 to be  
16 siphoned off."  
17 How can that be right, £200,000?  
18 A. If you add up all of the invoices, which we hadn't  
19 excluded at that time, and all of the payroll, which we  
20 couldn't quantify, and the overtime, you added all of  
21 that up it's somewhere near those figures.  
22 Q. Even you aren't suggesting that these people were doing  
23 no work, are you?  
24 A. I had no idea at the time.  
25 Q. What, so if you have a load of invoices that adds up to

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1 £200,000, and you have no idea at the time what work  
2 these people do, that is potentially siphoning off  
3 fraudulently and dishonestly £200,000?  
4 A. Potentially.  
5 Q. Potentially, you might be fraudulently and dishonestly  
6 siphoning off your salary, Mr McAlindon. Potentially.  
7 I don't know what work you do.  
8 A. Could be.  
9 Q. But that doesn't seem to -- that seems rather  
10 artificial, Mr McAlindon.  
11 A. It's not artificial when you consider the fact that  
12 consultancy services are not used in the group  
13 because --  
14 Q. SOG know all about it.  
15 A. I am trying to answer your question.  
16 Q. And I am perfectly entitled to ask you --  
17 A. Consultancy services are not used in the group, and it  
18 specifically refers to the fact that A shareholders  
19 shouldn't or can't use consultancy services. So the  
20 fact that you see large numbers of invoices for  
21 consultancy services is extraordinarily unusual. I've  
22 never seen it in any investigation I've done in  
23 14 years. The fact that somebody then moves on to the  
24 payroll and is paid sums of money that are not in line  
25 with normal payments to what you would see in stores day

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1 to day is exceptionally unusual, and the overtime  
 2 payments in volume and frequency are also exceptionally  
 3 unusual. So I don't think it's unreasonable to question  
 4 all of it and say that it is potentially fraudulent.  
 5 Q. But you are there, and your hypothetical is there, you  
 6 are surely ignoring the actual facts of this case?  
 7 A. No, I am drawing a conclusion based on the facts of the  
 8 case, and at that stage I'm just looking at the  
 9 preliminary findings to decide whether or not, based on  
 10 our experiences and understanding of what's right and  
 11 what's wrong, what's normal and what's exceptionally and  
 12 highly unusual, as to whether or not there was a need to  
 13 launch an investigation into it. So although I am  
 14 saying that I felt at face value this is extraordinarily  
 15 unusual and I feel it's fraudulent, that was the grounds  
 16 for which I believed that there was cause to fully  
 17 investigate it and get a proper understanding of it. So  
 18 I don't think that what I am saying is unusual or  
 19 disproportionate.  
 20 Q. I didn't say it was unusual or disproportionate, I said  
 21 you are deliberately ignoring, for some reason, and I am  
 22 going to ask you why, the actual facts of the case as  
 23 known by Mr Rowe, Mr Raines, Mr --  
 24 A. You can't ignore something that you are unaware of, and  
 25 at that stage I had received an instruction from

1 Derek Dyson on whatever date it was, but it was the one  
 2 where Mr Dyson had written on the email and attached  
 3 a pdf, that was my first instruction --  
 4 Q. He told you that this had already been looked into?  
 5 A. I had received that instruction, so I am not ignoring  
 6 it.  
 7 Q. Why didn't you look into the fact that you had already  
 8 looked into it then when Mr Dyson wrote that for you on  
 9 his piece of paper?  
 10 A. Because I ... the fact that the RST had got involved  
 11 wouldn't necessarily alter the course of what we would  
 12 do. We would go through it in our normal way. It  
 13 didn't occur to me to ask the RST to provide whatever  
 14 they had done, it just never occurred to me to ask the  
 15 question.  
 16 Q. Surely the whole point about unauthorised payments by  
 17 partners to whoever starts with the word "unauthorised",  
 18 so if SOG knew all about it and allowed it to happen,  
 19 it's not a problem, is it?  
 20 A. A member of the RST, it appears, had accepted and tried  
 21 to resolve a pattern of invoicing into a store. It  
 22 wasn't my position to agree or disagree with that.  
 23 I didn't -- I wasn't aware of the full details of it.  
 24 We did our normal investigative process. I didn't  
 25 ignore anything.

1 Q. You may well have done your normal investigative  
 2 process, Mr McAlindon, but that involves you choosing  
 3 which parts of the evidence you wish to rely upon,  
 4 doesn't it?  
 5 A. Well, no, I don't agree with that. I am selecting all  
 6 of the factual evidence that I can gather to decide: do  
 7 we need to do an investigation? I may well, and  
 8 actually did, exclude significant proportions of that  
 9 investigative material, including the invoices which  
 10 I didn't refer to in the end, for the very reasons that  
 11 Mr Stuart raises. There had been some intervention in  
 12 those, and they were subsequently excluded. This is the  
 13 preliminary stage, before we had even decided: do we  
 14 need to do a investigation? So in the end, actually,  
 15 I didn't ignore it, I excluded it.  
 16 Q. Back to your statement:  
 17 "From the summary it was clear ... sufficient  
 18 information to warrant a full investigation."  
 19 Do you see?  
 20 A. Where are you referring?  
 21 Q. Paragraph 26.  
 22 "I obviously considered this to be a serious matter.  
 23 Accordingly I was instructed by Derek Dyson on behalf of  
 24 SOG to commence a full investigation."  
 25 Paragraph 27 of your statement. You are saying that

1 the sequence was, after the document that we have just  
 2 seen, 23 February --  
 3 A. Yeah.  
 4 Q. -- you were instructed to commence a full  
 5 investigation?  
 6 A. Correct.  
 7 Q. When was that instruction?  
 8 A. Once we had completed the work that we needed to do from  
 9 Mr Dyson's request, I would have spoken to Mr Dyson,  
 10 explained to him --  
 11 Q. When? Listen to the question. When was the  
 12 instruction?  
 13 A. After I had received the report and I picked up the  
 14 phone to Mr Dyson. I don't know --  
 15 Q. Give me a week?  
 16 A. -- and I don't know what specific date it would be.  
 17 Q. All right, a week. Give me a week?  
 18 A. No idea. Absolutely no idea.  
 19 Q. Is there any note of this?  
 20 A. No. I would pick up the phone when I had concluded  
 21 something and say, "This is what we found, we need to do  
 22 an investigation, here are the issues, this is what  
 23 I believe to be wrong and this is consistent with what  
 24 we do", and Mr Dyson would have said "Yeah, I agree" or,  
 25 "No, I don't agree" or "Could you go and do some more

1 work and speak to whatever?"  
 2 Q. Or Mr Dyson had from the first week of January already  
 3 decided that this was the plan and you and he agreed to  
 4 carry on with the plan?  
 5 A. I totally disagree with that.  
 6 Q. Yes.  
 7 A. My instruction was on the basis of the findings in  
 8 relation to the payroll and the invoicing.  
 9 Q. Okay, so when do you send Mr Dyson your findings? This  
 10 is an important matter, Mr McAlindon, when do you send  
 11 him your findings?  
 12 A. I don't know, if you are referring to a document here,  
 13 can you direct me towards it?  
 14 Q. There isn't one.  
 15 A. Then I didn't email a document. I would have had  
 16 a conversation with him, which I did fairly frequently.  
 17 Q. You don't go to Guernsey at this point, do you?  
 18 A. I very rarely go to Guernsey.  
 19 Q. Okay. You don't send Mr Dyson the audit?  
 20 A. At that stage, probably not.  
 21 Q. Why not? He is desperately keen to know about this  
 22 personally, he has already given us evidence about that.  
 23 A. "Desperately" is a strong word, but whenever we have got  
 24 to a point where I need board agreement, I would pick up  
 25 the phone, explain the case, if Derek felt that he

1 needed more information I would provide it, but in  
 2 principle on the basis of what I explained to him he  
 3 agreed with my recommendation that we needed to complete  
 4 an investigation. So I went ahead and started.  
 5 Q. You went ahead and started when?  
 6 A. Er ...  
 7 Q. Would that have been the last week of February or --  
 8 A. It would have been very shortly after that, and there  
 9 was a delay between having that discussion and finally  
 10 starting, there was quite a delay.  
 11 Q. That's what I just asked you. You have had this  
 12 discussion shortly after 23 February you are saying now?  
 13 A. Sorry, is that the date of the report?  
 14 Q. Yes.  
 15 A. Yes, that's correct.  
 16 Q. Some time shortly after 23 February, Mr Dyson tells  
 17 you --  
 18 A. I would have had verbal agreement to go ahead.  
 19 Q. Right, and then when do you start?  
 20 A. I started when I wrote an email to Dr Poulsen and  
 21 Mr Weller.  
 22 Q. That's not until the end of May.  
 23 A. Correct. 26 May, I sent an email to Dr Poulsen.  
 24 Q. So nothing in between?  
 25 A. No.

1 Q. No discussions with anybody?  
 2 A. No, not to my recollection. At that stage we had  
 3 already been given the green light. Our issue was in  
 4 respect of having the right resources available to  
 5 commence it.  
 6 Q. What, you were doing something else at the time?  
 7 A. There were a number of investigations going on at the  
 8 time.  
 9 Q. Uckfield?  
 10 A. Uckfield being one of them.  
 11 Q. So when was the decision actually made, then, to start  
 12 the formal investigation, disciplinary investigation  
 13 process, according to you? In the week after  
 14 23 February?  
 15 A. Sorry, you are using the word "disciplinary  
 16 investigation process", I don't understand really what  
 17 you mean by that, because in my understanding you do the  
 18 investigation first. When you finally conclude your  
 19 investigation you submit your findings and a decision is  
 20 then taken by the board as to whether or not there is  
 21 a disciplinary case to answer to and then disciplinary  
 22 proceedings would be instigated. Are we talking about  
 23 the investigation or the disciplinary?  
 24 Q. The investigation is towards a disciplinary matter  
 25 rather than --

1 A. No, it's not.  
 2 Q. -- an investigation into something else.  
 3 A. No, it's not, I totally disagree with that. The  
 4 investigation is to present the evidence to the  
 5 individuals involved, to give them an opportunity to  
 6 comment and then to make a judgment as to whether or not  
 7 there is a disciplinary case to answer to.  
 8 Q. Right, now, you have just told his Lordship that this is  
 9 just an oral conversation between you and Mr Dyson, that  
 10 it happened some time around the last week of February  
 11 or shortly thereafter, and there was then a long gap and  
 12 that there was nothing sent in writing. Would you be  
 13 passed the transcript bundle, Day 10? So on Friday  
 14 Mr Dyson gave evidence about this. Were you in court?  
 15 A. I was, yes.  
 16 Q. If you go to page 49, I think it is.  
 17 A. On Day 10?  
 18 Q. Yes. The page numbering is on each block, so there are  
 19 four pages on each page. If you go to line 11, I was  
 20 trying to find out from Mr Dyson what he was saying  
 21 about the sequence of events, and he said:  
 22 "Answer: I was not -- I need to go to my witness  
 23 statement because it is in an order that obviously as  
 24 things happened, my recollection is that I instructed  
 25 Mel to do the desktop on 8th February."

1 That ties in with your evidence, Mr McAlindon; yes?  
 2 A. Correct.  
 3 Q. "A report would have come back which I remember  
 4 reading~..."  
 5 A. Which -- well, the only thing that I can think of would  
 6 have been that --  
 7 Q. That's all I can think of.  
 8 A. -- although I don't think that would be the case,  
 9 because I would have emailed that to Mr Dyson had that  
 10 been the case. I actually think the report was verbal,  
 11 because I actually haven't got an email.  
 12 Q. What do you mean, you don't have an email?  
 13 A. I haven't sent an email to Mr Dyson with that report  
 14 attached.  
 15 Q. Oh, I see, yes, we don't see what email you sent to him.  
 16 No, I agree with you. So you are saying that you didn't  
 17 send him a report?  
 18 A. I am saying that I reported back to him. I believe that  
 19 that report was verbal, because I haven't sent an email.  
 20 Q. Yes.  
 21 A. But I did report back to him.  
 22 Q. You then say that he instructs you to commence the full  
 23 investigation?  
 24 A. Correct.  
 25 Q. But you don't do anything on this investigation until,

1 I think it's page -- you can put away all the other  
 2 folders -- 907 in E4, 26 May? Yes? 907. 26 May.  
 3 A. Correct.  
 4 Q. In that intervening period, between the end of February  
 5 and the end of May, so that's three months, you must  
 6 have been discussing this with the other people in the  
 7 loop, shall we call it, Mr Raines, Mr Ryan, Mr Dyson?  
 8 You must have been discussing it with them?  
 9 A. The only discussions that would have taken place, the  
 10 preliminary investigation findings had been, we had the  
 11 facts that we needed to investigate, the issue was  
 12 entirely one of logistics. So if any conversations took  
 13 place, which I can't recollect any specific ones, they  
 14 would have been in relation to timescale: when can you  
 15 go in and when do you have the resource?  
 16 Q. You don't seem to mention any of this in your witness  
 17 statement?  
 18 A. No.  
 19 Q. No emails, no minutes of any of these meetings, no  
 20 notes?  
 21 A. I haven't had any meetings.  
 22 Q. You haven't, okay. No emails to your team, to Mr Barnes  
 23 or Mr Walls?  
 24 A. About?  
 25 Q. About preparing for this investigation that's going to

1 happen.  
 2 A. As I say, it's not one of about preparing, it's that we  
 3 have the facts of the case, the issue is one to do with  
 4 logistics. The team comprises of three people on the  
 5 investigation side and I don't even think we had five at  
 6 the time, but they are all tied up normally day-to-day  
 7 looking at NHS, there are a number of them that are --  
 8 there is two of them that are qualified dispensing  
 9 opticians, and a number of them are being retail  
 10 managers. They would be involved in a number of other  
 11 things. Some of them were involved in the day-to-day  
 12 management of Uckfield. So we had limited resource  
 13 available around that time. I was also in Australia  
 14 doing an investigation around that time, and all of that  
 15 caused delays before we could commence it.  
 16 Q. Who is aware that you are going to suspend Dr Poulsen  
 17 and Mr Weller and do some sort of financial irregularity  
 18 allegation against them? Who is aware of this?  
 19 A. Well, Derek Dyson would have been aware because I would  
 20 have asked his authority. The only other people that  
 21 I would have discussed it with outside my own team would  
 22 probably have been in relation to Alison Anderson who is  
 23 a person in the legal department who produces suspension  
 24 letters. Outside of that, I don't recollect discussing  
 25 it with anybody, and we would normally not discuss these

1 issues with anyone anyway.  
 2 Q. Mr Rowe, were you discussing it with him?  
 3 A. I have no recollection of having any discussions with  
 4 Mr Rowe about this.  
 5 Q. Go to page 875 in bundle E4. 23 March, this is a month  
 6 after your 23 February summary report.  
 7 A. Yeah.  
 8 Q. And two months before you actually go, do you see?  
 9 A. Yes.  
 10 Q. He says:  
 11 "This is something we will be leaving to Mel!  
 12 However, you cannot talk to anyone about this."  
 13 A. Yeah.  
 14 Q. He is telling his subordinate?  
 15 A. Correct.  
 16 Q. Do you recall any conversations with him?  
 17 A. I have no knowledge of that and I have had no  
 18 conversations with him, he may well have become aware  
 19 from another area, I don't know.  
 20 Q. Well, how would he become aware, through Mr Dyson  
 21 I suppose is what you are saying?  
 22 A. Possibly, I don't know.  
 23 Q. Mr Dyson seems to be the man controlling all of this?  
 24 A. There have been a range of conversations between  
 25 Jez de Carteret, Mike Rowe, Mark Raines, Derek Dyson,



1 I am not party to them, and I don't know what's gone on  
2 here.  
3 Q. So Mr Dyson is giving you your instructions, you are not  
4 receiving instructions or talking to these other people?  
5 A. No, Mr Dyson has given me an instruction to investigate,  
6 which we have done, I have gone back and had  
7 a discussion with him and said that in my opinion we  
8 need to do a full investigation, and he has given me  
9 an instruction to go ahead with that.  
10 Q. But he wanted a full investigation, didn't he? He  
11 wanted to put pressure on Dr Poulsen and Mr Weller?  
12 A. That's your opinion, I can't comment on that.  
13 Q. You must have spoken to him about it, Mr --  
14 A. It's not something I believe to be the case, but --  
15 Q. Behind the scenes, you must have been speaking to  
16 Mr Dyson about this matter?  
17 A. No, I literally had an email instruction, followed by  
18 a discussion over the findings of that, and there may  
19 have been the odd passing conversation about the  
20 logistics of it, because we were taking some time to get  
21 there, but it wasn't something that was part of  
22 a regular conversation. It would have become more  
23 regular once we had got into the investigation and there  
24 was something to talk about but there wasn't.  
25 Q. It obviously wasn't something that was particularly

1 important, then. Three months can go by and you don't  
2 even have a conversation --  
3 A. No, it doesn't belie the importance of it, it's simply  
4 that we didn't have any resource.  
5 Q. Who makes the decision to suspend the claimants?  
6 A. I would normally make that request, and it would either  
7 be cleared by -- as part of the discussion with  
8 Derek Dyson as to launching a full investigation.  
9 I would say to him "we would probably need to suspend in  
10 order to investigate", and he would say in principle  
11 "yes, I agree with that".  
12 At that point I would go to the legal department and  
13 get the investigation letters drawn up. In reality,  
14 that doesn't mean that they are definitely getting  
15 suspended. Probably 50 per cent of the time we would  
16 end up not suspending somebody, and it would depend  
17 entirely with what was said, once we got into the fray  
18 and understood what the initial explanations were.  
19 Q. Did you have a conversation where Mr Dyson instructed  
20 you just to suspend, through the legal department?  
21 Because you don't mention it in your witness statement.  
22 A. No. Mr Dyson wouldn't instruct me to suspend anybody.  
23 I would -- if I felt it was necessary to suspend people  
24 in order to protect the evidence, ie the paper trails  
25 that exist in the store, or because I felt that in order

1 to understand and quantify our interpretation of what we  
2 thought was going on, we would need to interview  
3 employees, it's unfair to both the employees and the  
4 partners to leave the partners in a position where  
5 either through natural curiosity and stress from the  
6 situation that they try and find out or influence the  
7 individuals that we would try and speak to in store, or  
8 vice versa, to give the employees the peace of mind,  
9 I suppose, that they can speak freely without worrying  
10 who is listening next door. It puts everybody on  
11 a safer footing if in that environment you have to  
12 interview all the staff that you suspend them.  
13 Q. So you consider you have the authority to make the  
14 decision as to whether to suspend or not?  
15 A. Not at all, I would explain that I felt that there was  
16 a high probability that we would need to suspend,  
17 depending on what was said in the initial meetings with  
18 the partners, but I would exercise that on the day  
19 depending on what was said. Yes, there was a high  
20 probability, and in principle that was agreed to, that  
21 if that was the case I could go ahead; but if I felt  
22 that it was unnecessary or premature, the question of  
23 suspension would never be raised.  
24 Q. So who has given you that authority?  
25 A. I would have discussed that when I discussed the report

1 with Derek.  
2 Q. So where is that in your witness statement, then?  
3 A. I don't know, I don't think it is.  
4 Q. No. Any of this minuted?  
5 A. No.  
6 Q. Notes?  
7 A. No.  
8 Q. Mr Dyson didn't mention it.  
9 A. I don't know. That's normal process for when we go in  
10 and deal with an investigation where potential  
11 dishonesty is there, and it's necessary to secure the  
12 evidence that you need.  
13 Q. You say normal process; are you talking about your  
14 Specsavers disciplinary investigation process?  
15 A. I am talking about Specsavers investigation process, you  
16 keep using the word --  
17 Q. Go to bundle X. A bundle X has been created, my Lord.  
18 MR JUSTICE HILDYARD: Thank you.  
19 MR STUART: Tab 3, if you have the same tabs as me. Do you  
20 recognise this?  
21 A. I do.  
22 Q. We have pagination in the top right-hand corner, and it  
23 runs internal to this X. So if you go to X/169.  
24 A. Sorry, just explain the X again. Tab 3?  
25 Q. X is the file number, and now it's 169 in the top

1 right-hand corner, there would have been a 169 back in  
2 bundle E1?  
3 A. So it starts number 1, "ACAS Statutory Code Of  
4 Practice" --  
5 Q. "ACAS Statutory Code of Practice. Discipline."  
6 A. Yeah.  
7 Q. By the second holepunch "General Principles of the ACAS  
8 Code."  
9 Do you see that?  
10 "As an employer you should deal with the issues  
11 promptly."  
12 Do you see that one?  
13 A. Correct.  
14 Q. You don't seem to have done that. The issue was known  
15 about in January, known about by you in February,  
16 nothing happens until May, when it happens to be  
17 convenient for you to use it against Dr Poulsen and  
18 Mr Weller?  
19 A. Well, that's your interpretation, with which I would  
20 disagree. It does say you should act promptly, and  
21 I would agree with that entirely. But we had a number  
22 of these cases going on, or we had one of these cases  
23 going on, and we simply didn't have the resource to  
24 respond quicker than we did.  
25 Q. Then you should conduct necessary investigations; would

1 that not include asking the regional manager just  
2 straight up what he knows about Mr Vos' role within the  
3 store?  
4 A. I don't look at any of this and think that we -- that  
5 anything that we have done is inconsistent with these  
6 guidelines.  
7 Q. That's not the question I asked you. Would not that not  
8 include asking the regional manager, Mr Rowe, what he  
9 knows about Mr Vos' role in the store?  
10 A. In answer to your question, yes, it could do. However,  
11 my Lord, if I could just explain. This document is  
12 a guide to managing discipline, grievance and appeal.  
13 MR JUSTICE HILDYARD: I think counsel is just discussing  
14 with you where the departures were in order to assess  
15 the reasons for those departures.  
16 A. Okay.  
17 MR STUART: You have accepted, I think, that it might well  
18 do, you said, asking Mr Rowe, the regional manager,  
19 might well be one of the investigations that might be  
20 appropriate in this sort of case?  
21 A. It could do, but we had all the paper trails, yes, it  
22 could, but --  
23 Q. You had all the paper trails to support your side of the  
24 case?  
25 A. I don't disagree with --

1 Q. You didn't wish to hear the evidence of the other side  
2 of the case, is that your position?  
3 A. Sorry, say that again?  
4 Q. You had all the paper trail to support your version of  
5 events?  
6 A. Correct.  
7 Q. You didn't wish to hear the explanation as to the events  
8 from other witnesses who didn't tie in with your  
9 version?  
10 A. No, I was just unaware of it.  
11 Q. Mr North, for example, had been in store, hadn't he, and  
12 done an investigation as recently as 2009 which involved  
13 looking at the roles of the directors, it was one of the  
14 items on the grievance?  
15 A. I don't disagree with your point that I could have asked  
16 him questions about his investigation, I agree.  
17 Q. And Mr Rowe, the regional manager, you could have asked  
18 him?  
19 A. Could have done, yeah.  
20 Q. And then he could have told you all of the things he  
21 knew about Mr Vos?  
22 A. He could have done, but I suppose --  
23 Q. What about Mr Yogaratnam?  
24 A. -- part of the reason why I wouldn't go to Mr Rowe and  
25 ask him for his opinions is that Mr Rowe is a specialist

1 in retail support and he might not necessarily have  
2 recognised, and probably wouldn't do, some of the issues  
3 that we would recognise as more significant. But yes,  
4 I could have contacted him.  
5 Q. Mr Yogaratnam, he could have been a witness, couldn't  
6 he? He was the most senior on-site optometrist manager.  
7 He could have been questioned in detail about the amount  
8 of time that Mr Vos was working in the store?  
9 A. Correct me if I am wrong, but did Mr Yogaratnam not make  
10 a statement? Was a statement not taken from him?  
11 Q. He doesn't seem to have been asked in detail about  
12 Mr Vos' times in the store, the role that Mr Vos played,  
13 the line of management et cetera, all of the things that  
14 the more junior witnesses did get asked and statements  
15 made for them, but not Mr Yogaratnam?  
16 A. No, and I think the reason for that is the individual  
17 taking a statement took the statement on the belief that  
18 Mr Yogaratnam was an optician and therefore spent the  
19 vast proportion of his time in a testing room for the  
20 full trading day, and was asking questions in relation  
21 to his payroll rather than Mr Vos' attendance.  
22 Q. What about all the other little witnesses who are in  
23 testing rooms or doing other things during the day, do  
24 they not fall within the same category?  
25 A. Which other little witnesses are you referring to?

1 Q. I'll take you to them when we get to them.  
 2 A. Okay, I will comment on it then.  
 3 Q. Just go back to 169.  
 4 A. Yeah.  
 5 Q. "Give employees a chance to put forward their case,  
 6 allow employees the option of being accompanied to  
 7 formal disciplinary meetings, inform employees of the  
 8 basis of the problem, ensure the disciplinary procedure  
 9 being used is fair."  
 10 You didn't inform these employees, did you, fairly  
 11 or honestly, about the basis of the problem?  
 12 A. We don't appear to have got to the stage where we  
 13 submitted the final investigation report which was  
 14 provided to the board with a recommendation that there  
 15 were a number of disciplinary allegations that I felt  
 16 there was to answer to. At that point, it was their  
 17 decision as to whether or not a disciplinary process  
 18 should have been instigated, at which point they would  
 19 have been provided with all of the evidence in relation  
 20 to it, and in fact were. They sent in a rebuttal to the  
 21 investigative report, attached to which was their  
 22 letters of resignation. A disciplinary process can't be  
 23 instigated on somebody who is no longer an employee. So  
 24 I believe that's why a disciplinary process wasn't  
 25 instigated.

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1 However, our part and our involvement is through the  
 2 investigation, up until we have gathered all the  
 3 evidence that we believe is relevant in the case,  
 4 submission of an investigation report to legal, and then  
 5 that's the end of our involvement in that process, other  
 6 than people possibly coming back to us for clarification  
 7 on certain issues.  
 8 In terms of your reference to disciplinary and  
 9 having the chance to explain their interpretation of  
 10 events, that process would have been gone to, had they  
 11 not replied arguing everything that was in the report  
 12 and resigning at the same time.  
 13 Q. Why did you give a misleading explanation to Dr Poulsen  
 14 and Mr Weller about the basis for this investigation?  
 15 Page 907 in bundle E4.  
 16 A. Can I close this one?  
 17 Q. What are you in?  
 18 A. Bundle X.  
 19 Q. No, no, you will need X.  
 20 A. Okay, sorry, which one?  
 21 Q. Put away everything apart from your witness statement,  
 22 bundle E4, and bundle X.  
 23 A. Bundle C?  
 24 Q. That's your witness statement.  
 25 A. E2?

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1 Q. You can get rid of that. According to your evidence  
 2 today --  
 3 A. Which piece am I looking at now?  
 4 Q. Page 907 in E4. The email I took you to, which is what  
 5 you say is the only email that starts the process  
 6 against them.  
 7 A. Correct.  
 8 Q. In your evidence earlier today, you have said that the  
 9 trigger for all of this was not, in this particular  
 10 case, the sale of the shares, it was the raising of the  
 11 specific suspicious activities by Mr Dyson to you by his  
 12 email of 8 February?  
 13 A. Correct.  
 14 Q. Now, this is what you wrote to Dr Poulsen and Mr Weller:  
 15 "As part of the Group's requirements where shares in  
 16 a store are being accurately marketed by a business  
 17 transfer, the loss prevention department remotely audits  
 18 such stores to demonstrate due diligence to the company  
 19 auditors who sign off all stores' accounts. Further, we  
 20 also do this is to help ensure that any prospective  
 21 purchaser [that must be of the shares] when making  
 22 a decision whether to purchase shares from the store are  
 23 aware of any/all liabilities of that store. Given that  
 24 shares are being actively marketed in Bognor, the loss  
 25 prevention department have therefore done a preliminary

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1 review of the store and in doing so has ..."  
 2 Do you see that?  
 3 A. Correct.  
 4 Q. The truth would have been: "Mr Dyson asked us to  
 5 investigate you on 8 February, we are the loss  
 6 prevention department. We have investigated you on  
 7 23 February, and now three months later we want to come  
 8 into your store, suspend you and raise some allegations  
 9 of financial irregularity against you?"  
 10 A. We have covered the subject of suspension and  
 11 I explained that that decision wouldn't have been taken  
 12 until we had had the initial conversations with them.  
 13 So can you repeat your question, please?  
 14 Q. Why are you trying to give the impression in this  
 15 email --  
 16 A. Sorry --  
 17 Q. -- that "this is all just a standard matter arising  
 18 from the fact that Mr Weller wants to sell his shares  
 19 and there is a bit of due diligence gone on, and we have  
 20 found some irregularities that need answering?"  
 21 Why not come clean and tell them what the case is --  
 22 A. Because I was trying to find the least provocative way  
 23 that I could contact the partners that wouldn't cause  
 24 a significant escalation or argument so that we could  
 25 get into the store and have a face-to-face conversation.

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1 Q. I suggest to you that you were trying to cover up the  
 2 fact that Mr Dyson had given the orders here, he was the  
 3 chief and you were one of his Indians, he --  
 4 A. I totally --  
 5 Q. -- had set this whole thing going and you were trying to  
 6 cover that up?  
 7 A. No, I totally disagree with that. The reality is that  
 8 I have been involved in investigations for over  
 9 30 years, a number of years in the police and over  
 10 20 years in high street retail and the last 14 being  
 11 with Specsavers, and the process that we follow is  
 12 consistent with any process that anybody else I've ever  
 13 seen adopt. If anything with partners we actually go an  
 14 awful lot further because sometimes things can explode  
 15 because you are providing forewarning.  
 16 So, for example, if you were in an instore  
 17 environment and you had an issue with an employee, you  
 18 would do the same as we did, gather all the facts and  
 19 literally call in the employee and say, "Please sit  
 20 down, I want to talk to you about some things". You  
 21 would not write to them in advance saying "The loss  
 22 prevention department wants to come in. They want to  
 23 talk to you about financial irregularities." It  
 24 automatically causes fires to escalate and you end up in  
 25 a very difficult situation to manage. So you try and

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1 approach it in as low key as you can, but if we were  
 2 following the same process that you would treat any  
 3 other employee who works in any of the stores across the  
 4 estate, actually you would literally walk in and say,  
 5 "Sit down, we need to have a chat." We try and do it  
 6 because of the partner relationship to get it without  
 7 causing escalation and difficulty.  
 8 Q. Who wrote this email for you?  
 9 A. Nobody, I wrote it myself. Nobody writes my emails.  
 10 Q. Are you sure?  
 11 A. Correct.  
 12 Q. Look at page 961. This is a minute of the board meeting  
 13 of 15 June, so this is about three weeks later. Do you  
 14 have that?  
 15 A. I do .  
 16 Q. By this time Dr Poulsen and Mr Weller were certainly  
 17 upset by your threat of investigation, weren't they?  
 18 A. By my email request to come and speak to them about some  
 19 financial irregularities. That's not a threat, it's  
 20 a question.  
 21 Q. They had taken it the other way, as you have described  
 22 it there?  
 23 A. Yeah.  
 24 Q. Page 910, they wrote to you, 29 May?  
 25 A. Sorry, what are you referring to now?

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1 Q. This is their letter to you saying that you had been --  
 2 A. Sorry, are we looking at 961?  
 3 Q. I am going to come back to 961, but I want you to get  
 4 clear that by 15 June it was quite clear, wasn't it,  
 5 that what was being proposed was an investigation into  
 6 these two partners, based on allegations of fraud and  
 7 dishonesty?  
 8 A. The response to my email prompted a more detailed  
 9 response explaining the specifics of the allegations,  
 10 again which is very unusual in that you would never do  
 11 that with a normal employee, you would not furnish them  
 12 with the details of what you suspect before you even  
 13 speak to them. But yes, that's what we did.  
 14 Q. Okay. So 961, by 15 June, in the middle, Mr Raines is  
 15 still peddling this explanation that your investigation  
 16 arises solely from the sale of the shares and the  
 17 question of due diligence, et cetera. Indeed,  
 18 Mr McAlindon, the wording of that paragraph seems  
 19 incredibly similar, to me, to my reading, to your email.  
 20 If you just compare page 907 with page 961, your  
 21 email that you said you wrote yourself and nobody else  
 22 did it for you, you write:  
 23 "As part of the group's requirements where shares in  
 24 a store are being actively marketed by a business  
 25 transfer ..."

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1 Mr Raines' reads:  
 2 "As part of the Specsavers Group's requirements  
 3 where shares in the store are being actively marketed by  
 4 SOG's business transfer ..."  
 5 Do you see that?  
 6 A. I do.  
 7 Q. "... the loss prevention department remotely audits such  
 8 stores to demonstrate due diligence to the company  
 9 auditors who sign off all stores' accounts."  
 10 Mr Raines' reads:  
 11 "... SOG's loss prevention remotely audits such  
 12 store to demonstrate due diligence to the company  
 13 auditors who sign off all stores' accounts."  
 14 A. Correct.  
 15 Q. So did you write this 961 as well?  
 16 A. No, but they may have -- I mean, I don't know, I can  
 17 only speculate, they may have used the text in my email,  
 18 I don't know.  
 19 Q. Okay.  
 20 A. What I would also say is that the language used in that  
 21 paragraph is not an uncommon -- almost like piece of  
 22 script that you would use because it's not an uncommon  
 23 thing that, over the years, we have a process where, as  
 24 part of SOG's due diligence, we look into shares. So,  
 25 you know --

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1 Q. But on this occasion you weren't doing it --  
 2 A. My reason for saying that is by way of explanation as to  
 3 why the language is very close, it's something that you  
 4 say regularly over the years.  
 5 Q. But that explanation is in this case wrong, isn't it?  
 6 A. But it could well have been wrong because of my email,  
 7 I don't know. It's speculation on my part, I don't  
 8 know.  
 9 Q. Did you discuss with anybody within Specsavers the basis  
 10 for this investigation and the suspension? (Pause).  
 11 Mr Raines perhaps?  
 12 A. Well, I would have had to have provided the information  
 13 that underpinned why we believed an investigation was  
 14 necessary in order for -- and the fact that Dr Poulsen  
 15 and Mr Weller had written back to us and were very  
 16 unhappy, in order for people to finally come out to the  
 17 conclusion that we are going to call a board meeting.  
 18 Q. When did you do that?  
 19 A. I don't know. It would be some time in the intervening  
 20 period after I received the email where they were  
 21 clearly very upset, although I hadn't met them before.  
 22 Q. That's page 910.  
 23 A. Okay.  
 24 Q. If you go to page 910, 29 May, "Dear Mr McAlindon"?  
 25 A. Correct.

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1 Q. "LP visit re: financial audit". Just looking at the  
 2 fifth paragraph:  
 3 "in view of your reputation for being threatening,  
 4 intimidating and bullying", et cetera, et cetera, that's  
 5 what you are referring to?  
 6 A. Yeah, and because of that I referred this letter back,  
 7 because at that stage there were already complaints  
 8 about me as an individual, and I felt that other people  
 9 should decide the appropriateness as to whether or not  
 10 I controlled that investigation or not. So I referred  
 11 it back. What happened between the rest of those people  
 12 in terms of their -- how they got to a board meeting,  
 13 I can't comment on.  
 14 Q. Who did you refer it back to? This is obviously very  
 15 important.  
 16 A. I don't know.  
 17 Q. You don't know?  
 18 A. Well, something like that I would refer back to the  
 19 legal department. I wouldn't respond to a letter like  
 20 that, because it has allegations against me. The only  
 21 people that I can think of, and again I am speculating  
 22 because I don't know, I would pass that on to probably  
 23 legal or somebody else.  
 24 Q. Okay. I am not asking for any legal advice that you  
 25 were given by anybody, but it sounds like you can't

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1 recall any such actual conversation anyway, so that's  
 2 fine. You have been given the task by Mr Dyson to go  
 3 ahead with this investigation, as you put it?  
 4 A. (Witness nods)  
 5 Q. And if appropriate suspend them. "If appropriate", you  
 6 say?  
 7 A. Mm.  
 8 Q. They have written back to you saying you are  
 9 a threatening bully?  
 10 A. Correct.  
 11 Q. You can't recall legal advice, I am not asking you about  
 12 that, but are you saying you had some discussion with  
 13 someone in authority at Specsavers, be it Mr Dyson,  
 14 Mr Raines, or someone else, to decide what you were then  
 15 going to do with this investigation, what role you were  
 16 going to play? (Pause). Because that's what your  
 17 evidence seems to have been.  
 18 A. No. Looking at the email from the day before, the  
 19 previous emails are all copied to Michael Ryan of the  
 20 business transfer department and Stephen Moore, and the  
 21 letter is an attachment to one of those. So in all  
 22 probability, it was taken out of my hands, in that once  
 23 those other people were involved in the discussions,  
 24 other people got involved in the discussions of how do  
 25 we progress this further.

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1 Q. What, and gave you your instructions? You are saying  
 2 someone else decided this?  
 3 A. Someone else decided that a board meeting should be  
 4 called, I don't know who.  
 5 Q. What about your involvement? Who decided --  
 6 A. In the board meeting?  
 7 Q. No, you can't get involved in the board meeting because  
 8 you are the loss prevention officer doing an  
 9 investigation.  
 10 A. I totally agree.  
 11 Q. No. They are in the letter of 29 May complaining about  
 12 your reputation --  
 13 A. Yes, which they have copied to the legal.  
 14 Q. Absolutely.  
 15 A. Yeah.  
 16 Q. Are you saying that somebody took the matter out of your  
 17 hands?  
 18 A. To be honest I have no recollection, I know we ended up  
 19 in a situation where a board meeting had been called,  
 20 but how that was arrived at I don't know.  
 21 Q. Okay. Page 943, you respond to them:  
 22 "Dear Helle, please take this email as a receipt and  
 23 acknowledgement of your two letters."  
 24 I should have mentioned to you 939, she wrote  
 25 a second letter, isn't she, even longer?

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1 A. Yes.  
 2 Q. 939, fourth paragraph, bold underlined:  
 3 "Kindly provide us with the information we as store  
 4 directors have formally requested of you by return."  
 5 Do you see that?  
 6 A. I do.  
 7 Q. She reminds you to act in good faith, at the bottom?  
 8 A. Correct.  
 9 Q. Then 940, by the first holepunch:  
 10 "We formally ask you once again to furnish us with  
 11 the information about the alleged unusual transactions  
 12 in writing together with supporting documentation by  
 13 return."  
 14 A. Correct.  
 15 Q. Do you remember?  
 16 A. I do.  
 17 Q. All of that was a reasonable request, wasn't it?  
 18 A. No, it was a completely unreasonable question. As  
 19 I said, you know, any investigation that's conducted in  
 20 a store environment, the director or the manager who had  
 21 suspicions about an employee would gather the evidence,  
 22 they would call the employee into a room, they would  
 23 speak to them, there would be a notetaker, and it's  
 24 consistent with the Partner Guide to Managing Discipline  
 25 and Appeals, and it's referred to in there, the employee

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1 would be given no formal warning or detail as to what  
 2 the concerns were at an investigative stage.  
 3 Once the interview had been conducted, the decision  
 4 would be taken as it whether or not the investigation  
 5 indicated that there was a disciplinary case to answer  
 6 to. But the reality is that these requests are not  
 7 reasonable because I have never come across any  
 8 commercial environment that actually pre-furnishes  
 9 somebody who they suspect of something at a very  
 10 preliminary investigation. It's just not done.  
 11 Q. It's not a very preliminary investigation, they are  
 12 about to be suspended --  
 13 A. It is about to be investigated, they are about to be  
 14 investigated.  
 15 Q. You have already had, according to you, an investigation  
 16 in February?  
 17 A. No. The investigation has gone from a preliminary  
 18 desktop to a full investigation to present those  
 19 findings to them and give them an opportunity to  
 20 comment.  
 21 Q. So this is the full investigation?  
 22 A. What is exceptionally unusual in a commercial world is,  
 23 having got to the stage where you are going to present  
 24 the evidence to the individuals concerned and give them  
 25 an opportunity to comment, it's exceptionally unusual to

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1 pre-furnish them with that information. Nobody does it.  
 2 Q. I suggest to you it's part of your own process,  
 3 actually. Go to X/186. Step 1, the investigation. The  
 4 investigator's role is to find out the facts of the case  
 5 and decided if there is a disciplinary case to answer.  
 6 In some instances where it is an open and shut --  
 7 A. Sorry, where are you referring to here?  
 8 Q. X/186.  
 9 A. Yes, can I just read it?  
 10 Q. Yes. (Pause). Do you see it?  
 11 A. I am just finishing reading.  
 12 Q. Okay. (Pause).  
 13 A. Okay.  
 14 Q. So the bottom important item on 186:  
 15 "It is important to keep an open mind and look for  
 16 evidence which supports the employees' case as well as  
 17 get evidence against."  
 18 That's not really what you are up to here, is it,  
 19 Mr McAlindon?  
 20 A. I totally disagree, really. We haven't actually got  
 21 past the sort of first initial processes where -- "carry  
 22 out investigations without unreasonable delay".  
 23 I believe the delay is not great but there were  
 24 circumstances to them that made them unavoidable.  
 25 "determine the key issues to be investigated". We

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1 hadn't even got to the point of presenting that evidence  
 2 to the individuals concerned, to get their explanation  
 3 of it. So before we have even got to the point where  
 4 keeping an open mind, we are a long, long, long way off  
 5 that, because we haven't interviewed any of the other  
 6 employees.  
 7 Q. Okay, so you don't keep an open mind until you have  
 8 reached the stage of finding that there is such  
 9 a disciplinary case to answer that you have all your  
 10 evidence in the bag --  
 11 A. No, that's not the case.  
 12 Q. That's what you have just said. Do you want me to read  
 13 you back the evidence?  
 14 A. No, I accept that that's what I said, it was probably  
 15 a case of wording, we do keep an open mind, but my point  
 16 to you is that we are at a very preliminary stage, and  
 17 we haven't even heard what they have to say, so apart  
 18 from the facts of the case that we had got, which is the  
 19 invoices themselves, we haven't had a single  
 20 explanation.  
 21 Q. You have Mr Dyson's instructions as to what the position  
 22 is?  
 23 A. In what context?  
 24 Q. His emails.  
 25 A. We have got the initial instruction --

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1 Q. From Mr Dyson.  
2 A. Yes, and then subsequent to that we have all the payroll  
3 invoice reports.  
4 Q. Which show that Mr Vos was earning the money which all  
5 your Specsavers records show he was earning?  
6 A. Yes, absolutely.  
7 Q. But Mr Dyson's instruction to you was that Mr Vos  
8 doesn't actually do any work?  
9 A. But we haven't actually started the investigation.  
10 Q. You haven't started the investigation?  
11 A. No. Well, we have gone the preliminary desktop  
12 information gathering. What we have not done is started  
13 presenting the evidence to the individuals to give them  
14 an opportunity to comment and explain what was unusual  
15 about it.  
16 Q. Go over to page 187, this is in relation to interviewing  
17 witnesses, do you see between the two holepunches:  
18 "Ask the person for their version of events. Where  
19 there may be areas of misunderstanding, ask further  
20 questions in clarification. Questions should be clear  
21 and focused. Try open questions initially, followed by  
22 closed questions when seeking to pin down a fact or  
23 point of understanding."  
24 Do you see that?  
25 A. I do.

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1 Q. Do you agree that in order to get somebody's --  
2 an independent witness's -- version of events, it's best  
3 to ask them an open question to start with?  
4 A. Correct.  
5 Q. Rather than tell them what it is you want them to say?  
6 A. Correct, correct.  
7 Q. So if Mr Barnes started with a premise of guilt, and  
8 sought to get witnesses to make statements that  
9 supported his premise, that would be contrary to that  
10 fundamental principle of trying to find out the truth?  
11 A. I can't really comment. You know, if you point me to  
12 an example --  
13 Q. We will come to it when we come to the interviews, but  
14 this is your process, isn't it, ask open questions and  
15 try and get --  
16 A. No, it's not our process, this is a partner guide to  
17 managing discipline and appeals, which is a partner  
18 guide that is prepared to give partners guidance on how  
19 to manage discipline and appeals within their store  
20 businesses. We also provide them with an external  
21 advisory service, which is a firm of solicitors that  
22 they can use to manage their internal store processes.  
23 This is their guide.  
24 Q. Do you not follow your own guide when doing  
25 investigatory interviews?

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1 A. We endeavour to follow a fair and good process.  
2 Q. Okay. If you go over to page 188, under "Carry out  
3 an investigatory interview with the person against whom  
4 the allegations are being made"; yes?  
5 A. Sorry, where?  
6 Q. 188, in a section about an investigatory interview with  
7 the person against whom the allegations are being made,  
8 so here it would be Mr Weller --  
9 A. Sorry, now you're losing me. I'm on page 188. Where  
10 are you referring to?  
11 Q. At the top, it says:  
12 "Carry out an investigatory" --  
13 A. Oh, right.  
14 Q. Does it not -- mine does --  
15 A. No, that's fine.  
16 Q. This is a guide as to what to do when you are actually  
17 interviewing the person concerned, all right?  
18 A. Yes.  
19 Q. If you go down to just above the second holepunch, apart  
20 from the guide that we have already seen, "questions  
21 should be clear and focused, try open questions", what  
22 about the next one:  
23 "Questions must not be accusatory, intimidatory or  
24 leading. All questions should be asked one at a time,  
25 never before the employee has finished replying."

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1 A. Yeah.  
2 Q. Is it yours and Mr Barnes' practice to ask accusatory,  
3 intimidatory and misleading questions?  
4 A. I don't think so.  
5 Q. Have you ever done that?  
6 A. I don't think so.  
7 Q. All right. It would be wrong to do so, wouldn't it?  
8 A. Part of the reason why we introduced or I introduced  
9 tape recorded interviews, and this case was one of the  
10 early ones that we did after we first found a machine we  
11 could do it with, was to ensure that not only was there  
12 absolute transparency in terms of what people said, so  
13 it reduced the possibility of misunderstanding or  
14 misrepresenting what people had said, transcribing is  
15 difficult, but it also ensured that the tone of  
16 conversation could be heard, so whenever we have  
17 interviewed directors we offered, we suggested to them  
18 that it's a good idea that this is recorded  
19 electronically, because then there is no doubt and we  
20 can be held to account for inappropriate behaviour. If  
21 my general interviewing style was one of an aggressive  
22 nature, or bullying or intimidating, I wouldn't use that  
23 form of interviewing, I do it to protect myself against  
24 inappropriate allegations and the individual against me  
25 behaving in the way that is being suggested here.

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1 Q. Last question from me on this, Mr McAlindon: just to be  
 2 clear, this guide that you describe as the partner guide  
 3 to discipline, grievance and appeal, this is the guide  
 4 that was to apply to the investigation of these  
 5 partners, isn't it?  
 6 A. No, this is the store partners' guide to managing  
 7 discipline and appeals in their stores.  
 8 Q. No, but it was to apply to the investigation of  
 9 partners? It's called the Partner Guide to Managing  
 10 Discipline, Grievance and Appeal --  
 11 A. Which is the store partners' guide to them managing  
 12 employee grievance and appeals in stores.  
 13 Q. Okay, just go to page 956 in this same bundle, E4,  
 14 a letter to Mr Weller from Alison Girollet.  
 15 A. Sorry, which page?  
 16 Q. 956. This is the letter notifying him that you are  
 17 going to be investigating him. 955. Do you see that?  
 18 A. Yeah.  
 19 Q. If you go to 956, right between the two holepunches:  
 20 "Further information on suspensions and  
 21 investigations is set out in ..."  
 22 Do you see?  
 23 A. Yes.  
 24 Q. So this does apply to this suspension and this  
 25 investigation of Mr Weller and Dr Poulsen in this actual  
 1 2 1

1 case?  
 2 A. As I understood the manual it was for partners to help  
 3 them manage a process, I don't particularly disagree  
 4 with your point.  
 5 Q. Well, you did just disagree with me at line --  
 6 A. As I understand the manual, the manual is for partners  
 7 to manage discipline and grievance in stores.  
 8 Q. So you are not --  
 9 A. I don't fundamentally argue with your point that we  
 10 should try to abide by exactly the same rules, I accept  
 11 that.  
 12 Q. But you don't consider yourself bound by the manual in  
 13 this regard?  
 14 A. I am bound by employment law.  
 15 MR STUART: My Lord, is that an appropriate moment?  
 16 MR JUSTICE HILDYARD: Yes. We will resume at 2 o'clock.  
 17 Mr McAlindon, as you will know from your experience,  
 18 you are not to discuss this case with anybody at all.  
 19 (1.03 pm)  
 20 (The short adjournment)  
 21 (2.00 pm)  
 22 MR STUART: Good afternoon, my Lord.  
 23 MR JUSTICE HILDYARD: Good afternoon.  
 24 MR STUART: So, Mr McAlindon, we are in this period, just  
 25 before the investigation starts, and I just want to ask  
 1 2 2

1 you a couple of quick things about that. If you have E4  
 2 open --  
 3 A. Yes.  
 4 Q. -- if you go to 869, at around this time, so this is  
 5 March 2011, Mr Ismail and Mr Raines and Mr Rowe are  
 6 emailing each other. Were you aware of any of this  
 7 going on in the background to your instructions to  
 8 investigate financial irregularity?  
 9 A. No.  
 10 Q. You obviously weren't copied in on the emails  
 11 themselves, but were you kept up to date by Mr Rowe or  
 12 Mr Raines or Mr Dyson about what was happening, as it  
 13 were, in parallel to your side of things, on I'll call  
 14 it the commercial side of things?  
 15 A. No, I wasn't.  
 16 Q. Nothing at all?  
 17 A. No.  
 18 Q. I can't ask you about that, then, all right.  
 19 Page 883, Mr Ryan and Mr Raines emailing backwards  
 20 and forwards:  
 21 "Tell me again why Mel is not paying them a visit.  
 22 Answer: no cover when they are suspended."  
 23 These people seem to be well aware of the plan,  
 24 Mr McAlindon?  
 25 A. They were well aware of -- they may well have been aware  
 1 2 3

1 of the fact that we weren't going into it because of the  
 2 issues surrounding the resource levels that we had, but  
 3 I don't know.  
 4 Q. Suspension, someone has told them they are going to get  
 5 suspended?  
 6 A. I think that's an assumption on somebody's part, but --  
 7 Q. Do you? I suggest to you that the whole plan was being  
 8 discussed between all of you behind the scenes here, you  
 9 and Mr Dyson, Mr Dyson and his other senior managers --  
 10 A. No, that's not the case.  
 11 Q. So I had taken you just before the interval to the two  
 12 letters that they sent you, the second of which was 939,  
 13 and your response at 943, it's a very short response  
 14 from you:  
 15 "Dear Helle, please take this email as receipt and  
 16 acknowledgement of your two letters. Legal will write  
 17 to you in relation to your allegations and requests."  
 18 A. Yeah.  
 19 Q. Were you involved in matters personally, you personally  
 20 involved in deciding how to deal with Helle Poulsen and  
 21 Barry Weller at this point?  
 22 A. Erm --  
 23 Q. Or did you leave it to legal?  
 24 A. I don't recollect who was discussing it, but I don't  
 25 believe I was party to those decisions.  
 1 2 4



1 Q. No. What, somebody just told you "you are off the  
2 case"?

3 A. As I recollect, yes.

4 Q. Do you know who told you you were off the case?

5 A. I can't recollect.

6 Q. Plainly by 15 June -- do you remember I took you to  
7 page 961, the agenda item and the action that is -- the  
8 motion that is carried is at page 963:  
9 "The conduct of this investigation."  
10 Do you see item number 3 under "Motion 1" on  
11 page 963?

12 A. Yes.

13 Q. Item 3:  
14 "Authority to conduct the investigation ... be  
15 unconditionally delegated to Mr Phil Barnes."  
16 A. Yes.

17 Q. So you are not playing a part here, you personally, it's  
18 going to be Mr Barnes?

19 A. He is predominantly conducting the investigation, yes.

20 Q. Somebody has obviously decided that?

21 A. Correct.

22 Q. Are you suggesting that didn't happen with your input?

23 A. I am sure, logic would say, yes, I had an input into it,  
24 but I don't recollect any of the conversations.

25 Q. Do you know why you weren't involved? You get

1 25

1 personally involved in, for example, the Uckfield one we  
2 are coming to next week, the end of this week --

3 A. Yes, I think the decision was taken because there was  
4 an investigation coming up in Australia that needed to  
5 be dealt with, and it was felt that because Mr Weller  
6 and Ms Poulsen had made the comments that they had in  
7 the letter that it would probably take some of the  
8 emotion out of the situation if I didn't get involved in  
9 dealing with them.

10 Q. So when did you go off to Australia to start dealing  
11 with this other investigation?

12 A. Shortly after this meeting.

13 Q. So some time in mid-to late June 2011?

14 A. Probably.

15 Q. Can you not recall?

16 A. No, I can't recall.

17 Q. How long were you away for?

18 A. Normally it's either a week or a two week visit.

19 Q. Okay. So you were back fairly promptly then?

20 A. A week or a two week visit.

21 Q. Yes, so you were back by July?

22 A. Probably.

23 Q. All right. Did you then take a very keen interest and  
24 play a big part in this investigation?

25 A. No, my only involvement was before I went to Australia,

1 26

1 which was the interview with Mr Vos. I then went on my  
2 Australia trip and by the time I had returned most of  
3 the investigation had been completed by Phil Barnes and  
4 other members of the team, and my first involvement  
5 again after that was going through the files of evidence  
6 and the statements and the interviews with Mr Barnes.

7 Q. So let me get this right. You got involved with Mr Vos'  
8 interview?

9 A. Mm.

10 Q. Before you went away?

11 A. Correct.

12 Q. You then left it for Mr Barnes to deal with interviewing  
13 everybody else?

14 A. Correct.

15 Q. By which you mean the staff?

16 A. Correct, and Mr Weller and Helle Poulsen.

17 Q. Right. And then you came back?

18 A. Correct.

19 Q. And he reported to you, did he?

20 A. Correct.

21 Q. Any of that in writing, him reporting to you?

22 A. Reporting to me in what context?

23 Q. I don't know, you have just told us that he reported to  
24 you when you came back --

25 A. He reported to me -- sorry.

1 27

1 Q. -- in the context of his investigation, presumably?

2 A. He reports to me as an employee, so on my return,  
3 because it was a big case and it was the first one that  
4 he had taken control of, we met up at the end of the  
5 investigative process to compile the final investigation  
6 file.

7 Q. When did you meet up?

8 A. I don't know the specific date, but it was after the  
9 interviews had been completed.

10 Q. Perhaps we should just look at what you actually say  
11 about this in your witness statement. I think it's  
12 paragraphs -- to be fair to you, perhaps start at 37.  
13 I am not sure. The heading is at 35. Page 60,  
14 paragraph 35, "The Investigation":  
15 "Mark Raines called Mr Barnes to inform him that  
16 Bognor had authorised the investigation. He and other  
17 members of the loss prevention department had been  
18 waiting close by."  
19 This is, what, Mr Barnes and?

20 A. Zoe Smith, who is a dispensing optician and managed  
21 retail outlets, and there may have been some of the  
22 other team there, Les Gutteridge or Ben Walls.

23 Q. "As is routine, the first step was to check the  
24 documents and records held in the store."  
25 A. Correct.

1 28

1 Q. "Mr Barnes informed me", et cetera, et cetera. All we  
 2 hear from this point onwards in your witness statement,  
 3 it's just what Mr Barnes has told you, is it? You were  
 4 not personally involved, apart from the interview with  
 5 Mr Vos, which I'll come to in a moment?  
 6 A. I believe so.  
 7 Q. Did Mr Barnes take any manuscript notes during his  
 8 investigations?  
 9 A. His manuscript notes would have been the records of  
 10 conversation, records of interview that are in the file.  
 11 Q. Well, none of those are manuscripted?  
 12 A. When you say manuscripted, I am sorry, I don't  
 13 understand.  
 14 Q. Does he actually take with him any notes, for example  
 15 when he goes to an interview? Does he not have notes  
 16 with him for what he is going to ask?  
 17 A. They are always typed contemporaneously. They are  
 18 always typed on a laptop contemporaneously and then at  
 19 the end of it it's printed off, handwriting can be  
 20 a challenge at times.  
 21 Q. Yes, that's a minute or a note of what has actually been  
 22 said, I accept that. I am asking whether Mr Barnes  
 23 would have any notes to prepare himself so that we can  
 24 see what questions he was looking towards, what  
 25 questions he was going to ask, what issues he had in his

1 29

1 mind?  
 2 A. Not that I am aware of.  
 3 Q. So he just does everything out of his head?  
 4 A. No, that's not what I am saying, I am saying I was  
 5 unaware of whether he had any notes or he didn't have  
 6 any notes.  
 7 Q. Right. Have you seen the notes?  
 8 A. I haven't seen any notes, and I am unaware as to whether  
 9 or not he actually took --  
 10 Q. Has he learnt his investigating technique from working  
 11 under you?  
 12 A. Yes.  
 13 Q. Do you take notes with you, prepare yourself with some  
 14 notes?  
 15 A. I tend to do -- if I am recording an interview  
 16 contemporaneously, I tend to do an interview plan that  
 17 then becomes part of -- it's built in my interview  
 18 questions and the evidence, I explain in the paragraphs,  
 19 as I go through the contemporaneous record, so I would  
 20 ask a question about a specific piece of evidence and  
 21 explain it to them, and then write down any answers and  
 22 subsequent questions before I then moved on to the next  
 23 one.  
 24 Q. 36, then, you say -- I think Mr Barnes tells you this,  
 25 you were not there:

1 30

1 "Check the documents and records held in the store,  
 2 take photographs."  
 3 Have you seen those photographs at all?  
 4 A. No, I haven't.  
 5 Q. Do you know what happened to them?  
 6 A. I don't.  
 7 Q. Because, for example, they would show this -- do you  
 8 remember Mr Vos was cross-examined about the existence  
 9 of this box, a blue box or a plastic box of some sort,  
 10 in which there would be documents and also a key fob?  
 11 Do you remember Mr Vos being asked about that?  
 12 A. I remember him being asked about it, yes.  
 13 Q. Presumably if there was a picture or pictures of  
 14 everything when they went in, there would be a picture  
 15 of that box, if we could see those photographs?  
 16 A. Correct. My understanding is that during the interview  
 17 Mr Vos explained that he had taken that box out of the  
 18 store the day before, which we -- when we reviewed the  
 19 video footage, we saw him leave the building with a box.  
 20 Q. I think you are confusing a different box. We are  
 21 talking about the box that Mr Vos describes as being  
 22 left in the store, with the key fob in. Do you  
 23 remember?  
 24 A. Can you direct me to that part of evidence?  
 25 Q. It's during his cross-examination. Anyway, you weren't

1 31

1 present during any of this, so it's probably a bit  
 2 unfair of me to ask you about this -- you were not  
 3 present during any of this investigation?  
 4 A. No, I was present only during that one interview.  
 5 Q. That one interview.  
 6 37:  
 7 "Mr Barnes informed me during the course of the  
 8 investigation that when he and other members of the loss  
 9 prevention department arrived at the store they found  
 10 that the store had been empty."  
 11 Did he inform you of this -- it's obviously  
 12 something that's very important -- by email at all?  
 13 A. I can't recollect.  
 14 Q. No.  
 15 A. We would have been speaking routinely on the phone at  
 16 that point, up until I came into the store to do the  
 17 interview with Mr Vos.  
 18 Q. I think you must have got your sequence wrong slightly  
 19 on the dates as to why you did the interview with Vos  
 20 and not the others. If you go to 976, we see the first  
 21 interview with other members of staff. 976 in bundle  
 22 E4.  
 23 A. Yeah.  
 24 Q. Claire Stewart. You obviously weren't -- you took no  
 25 part in this?

1 32

1 A. No.  
 2 Q. Just so we have the picture clear: is this a note made  
 3 at the time on somebody's computer?  
 4 A. This is a contemporaneous record, yes.  
 5 Q. It's not a tape recording that has been turned into  
 6 a transcript?  
 7 A. No.  
 8 Q. This would be presumably either Mr Barnes or Ms Smith's?  
 9 A. Ms Smith as the witness would be sat on a laptop typing  
 10 it as it went along.  
 11 Q. Okay. So 17 June they go in, and interview Ms Smith.  
 12 If you go to 987, 20 June, they are interviewing  
 13 Mr Morris. I am going to come back to these interviews  
 14 in a moment. So you have the chronology, I just want to  
 15 understand how it is that you -- page 1046 -- interview  
 16 Mr Vos, 5 July.  
 17 A. Yes.  
 18 Q. So what's happened here then? Have you gone to  
 19 Australia and come back?  
 20 A. I don't know. I can't recollect it.  
 21 Q. Have you been briefed by Mr Barnes?  
 22 A. Before the interview with Mr Vos?  
 23 Q. Yes.  
 24 A. Yes, I would have been.  
 25 Q. Do we have any notes of that briefing?

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1 A. They would have been verbal. We would have sat down and  
 2 discussed it before the interview.  
 3 Q. Let's go back then to these interviews with these staff.  
 4 I am going to take them one at a time. Ms Stewart, 976.  
 5 Do you see that?  
 6 A. Yes.  
 7 Q. Now, Ms Stewart gives evidence, doesn't she, that  
 8 effectively Mr Vos runs the business?  
 9 A. Can you point me to where you are looking?  
 10 Q. Well, you have read this, haven't you, Mr McAlindon?  
 11 A. I've read everything, yes.  
 12 Q. Okay.  
 13 A. I am just asking you to point me where you are looking,  
 14 before I comment.  
 15 Q. I will take you, but do you not know what Ms Stewart  
 16 says about Mr Vos' management of the business? Do you  
 17 not know that one of the staff first when interviewed  
 18 said that Mr Vos effectively runs the business?  
 19 A. Yeah.  
 20 Q. You do accept that?  
 21 A. Yes.  
 22 Q. Okay. The detail of that we see at, for example, 977 at  
 23 the top, line number 36. This is an answer from  
 24 Ms Stewart:  
 25 "Any purchases [she now makes] have to be authorised

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1 by Godfrey."  
 2 A. Sorry, I am just reading the whole statement.  
 3 Q. Yes. (Pause).  
 4 A. Yes, so she is making a reference to --  
 5 Q. Let me make it clear to you, Mr McAlindon --  
 6 A. So she is making reference to financial controls and  
 7 that Godfrey controlled financially anything that was  
 8 spent in the business.  
 9 Q. Let me make it clear to you why I am asking you about  
 10 this. It is that in the investigation report, the  
 11 conclusion is reached that Mr Vos (a) only spends X  
 12 hours, let's say 13 hours a week in the store, and (b)  
 13 there is no evidence from the staff of any substantial  
 14 work being done by Mr Vos at his home outside the store.  
 15 You recall that that is a fundamental premise of the  
 16 investigation report?  
 17 A. If you can point me to the investigation report,  
 18 I believe it says that the employees said that he worked  
 19 between A number and A number in the store.  
 20 Q. Yes, and that's all they said? Do you think that's what  
 21 the investigation report said?  
 22 A. No, that was -- you are asking me about one aspect of  
 23 how everything the employees said about his attendance  
 24 in the business was summarised, and if you point me to  
 25 it, can you tell me where it is?

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1 Q. In your report?  
 2 A. Yes, it's quite specific about the number of hours to  
 3 and from the employees generally spoke.  
 4 Q. I am suggesting to you that you also concluded, not  
 5 just -- it wasn't just about the time he was in store,  
 6 which is one issue, it's about whether he did do any  
 7 work out of store. I'll take you to it if you really  
 8 need to be taken to this. Probably the best part is  
 9 E5/1286, Mr McAlindon. We are in the report which  
 10 starts at page 1265, do you see it?  
 11 A. Yes.  
 12 Q. After 21 pages of content, we come to the investigation  
 13 summary at the bottom of 1285, so this is, if you like,  
 14 a summary of your conclusions. Do you see that?  
 15 A. Yes, I do.  
 16 Q. When I say "your", perhaps we ought to have got this  
 17 clear first up. Mr Barnes wrote this report, did he?  
 18 A. I wrote the report with Mr Barnes.  
 19 Q. Okay, and the reason your name doesn't appear on it?  
 20 A. I have --  
 21 Q. Go to page 1293.  
 22 A. No, I understand that. I think that's because Mr Barnes  
 23 was the person who was overseeing the investigation.  
 24 Q. You are his boss and you wrote the report, didn't you?  
 25 A. I wrote it with him, yes.

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1 Q. Were you trying to cover up the fact that you wrote the  
 2 report?  
 3 A. No.  
 4 Q. Did you not want the connection between you and Mr Dyson  
 5 and this report --  
 6 A. Not at all.  
 7 Q. -- identified?  
 8 A. Not at all.  
 9 Q. Let's go back, then, to this question of what is the  
 10 issue, what is the conclusion reached, and why I am  
 11 asking you about Claire Stewart.  
 12 So on 1286 under the heading "Completion of  
 13 contractual working hours by WV", so this is the first  
 14 issue?  
 15 A. Sorry, which page are we looking at?  
 16 Q. 1286 just by the first holepunch, do you have it?  
 17 A. "Completion of contractual working hours ..."  
 18 Q. "... by WV"?  
 19 A. Yes.  
 20 Q. "It also seems improbable in my opinion", that will be  
 21 yours and Mr Barnes' jointly, no doubt?  
 22 A. Yes.  
 23 Q. "... that WV has fulfilled even his 24 hour contractual  
 24 working week, let alone working large amounts of  
 25 overtime as he has claimed and has been paid for."

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1 So that's your conclusion?  
 2 A. Correct.  
 3 Q. You give your explanation for your conclusion, for your  
 4 justification:  
 5 "The employees' evidence ..."  
 6 So from that we can we can presumably look at --  
 7 A. The statements.  
 8 Q. -- the statements that I was just taking you to:  
 9 "... and indeed that of WV is that he does not  
 10 complete 24 hours instore."  
 11 Yes, okay?  
 12 A. Yes.  
 13 Q. So there is the issue of what's instore each week:  
 14 "The employee's evidence is that WV's attendance in  
 15 store is significantly less than 24 hours every week.  
 16 WV, HP and BW each state that WV completes the remainder  
 17 of his contracted hours each week working from home ..."  
 18 Okay?  
 19 A. Yes.  
 20 Q. "... yet there is little evidence, if any, of WV  
 21 completing any significant amount of work from home."  
 22 A. Correct.  
 23 Q. So you are basing your alleged conclusion on a summary  
 24 of evidence saying that there is little evidence, if  
 25 any, of him working at home?

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1 A. Correct.  
 2 Q. You say:  
 3 "The employees report having no experience of WV  
 4 contacting them on a regular basis during the working  
 5 day to ask questions or clarify paperwork."  
 6 A. Correct.  
 7 Q. "The staff do not report WV routinely taking  
 8 a significant amount of paperwork home."  
 9 A. Correct.  
 10 Q. Okay? Then we are on to the next issue, which is  
 11 submission of a false document. So that's the summary  
 12 of it?  
 13 A. Well, it goes on to list examples as to the reason why  
 14 those conclusions are drawn.  
 15 Q. No, no, we then move on to a different issue, which is  
 16 the submission of a false document; do you see?  
 17 A. I do, but you have left the qualification of where those  
 18 statements come from, which goes on to explain the  
 19 reasons behind why that conclusion was drawn, which had  
 20 to do with access to the back office systems, it had  
 21 issues relating to the work that individual people were  
 22 performing, the two biggest administrative jobs in the  
 23 role relate to contact lens management and NHS debtor  
 24 management, that employees said that they did all the  
 25 processing. So it goes on to qualify why those

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1 conclusions were drawn.  
 2 Q. Look at what Claire Stewart says, then, okay?  
 3 A. There was one of a number.  
 4 Q. So we are back in E4.  
 5 A. Yeah.  
 6 Q. So page 977, lines 36 to 39:  
 7 "Any purchases [she now makes] is have to be  
 8 authorised by Godfrey."  
 9 A. Correct.  
 10 Q. "Claire feels that Godfrey has a very strong financial  
 11 control of the business and even though he may not  
 12 always be in the business, nobody would consider  
 13 purchasing anything for the store without getting  
 14 authorisation from Godfrey first."  
 15 A. Correct.  
 16 Q. Go on to the next page, 978 at the top:  
 17 "Question: Phil explained that every business has  
 18 an individual who are the leaders of that business. For  
 19 example, Specsavers Optical Group, it would be Doug and  
 20 John Perkins. Who in Specsavers Bognor Regis do you  
 21 view to be the leader of that business?  
 22 "Answer: Without a doubt, Godfrey is."  
 23 Do you see that?  
 24 A. Correct.  
 25 Q. Then:

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1 "Question: Would you say that Godfrey acts like he  
 2 owns the business?  
 3 "Answer: Yes."  
 4 Do you see that?  
 5 A. I do.  
 6 Q. Down to the bottom of 978, line 80:  
 7 "Question: What is the relationship between Barry  
 8 and Godfrey?  
 9 "Answer: I would view Barry as a dispenser, Barry  
 10 will not make any decisions without going through  
 11 Godfrey. If I wanted a day off and asked Barry, he  
 12 would tell me I would have to speak to Godfrey.  
 13 "Question: What about Helle?  
 14 "Answer: I would never have asked her, I couldn't  
 15 go to her and ask her something as we have to always go  
 16 to Godfrey."  
 17 Do you see that?  
 18 A. I do.  
 19 Q. Over the page, at the top, 88:  
 20 "Godfrey is viewed as the owner of the store, on all  
 21 occasions when I have been to staff training it's  
 22 Godfrey who calls the shots, makes the decisions."  
 23 93:  
 24 "As a director he [that's Barry] cannot make  
 25 a decision without running it by Godfrey first."  
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1 Do you see?  
 2 A. I do.  
 3 Q. Let's flick to nearer the back of this, because this  
 4 could go on, 983, line 217:  
 5 "Staff were under pressure to achieve the sales  
 6 target set by Godfrey. If we don't hit the target,  
 7 Sarah panics about ringing Godfrey. I also know that  
 8 Barry panics as well."  
 9 Do you see that?  
 10 A. I do.  
 11 Q. There could be little doubt, could there, that  
 12 Claire Stewart considers this business is run by  
 13 Godfrey Vos?  
 14 A. I would agree.  
 15 Q. You don't mention that anywhere in your investigation  
 16 report as being perhaps some work that Mr Vos might be  
 17 doing?  
 18 A. No, I don't.  
 19 Q. No. Go to the next witness, Glen Morris, page 987.  
 20 Actually, rather than that, I will just take you back to  
 21 Claire Stewart, because whilst we are here it's probably  
 22 quicker to do it this way. I did say this morning that  
 23 I would take you to some examples when Mr Barnes slipped  
 24 into inappropriate questioning techniques, leading  
 25 questions et cetera. Do you remember?  
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1 A. Yes.  
 2 Q. You said "well, you can show me?" Let's look at  
 3 page 982, line 192:  
 4 "Question: If I told you that John Ferguson is set  
 5 up on the system as a self-employed professional and is  
 6 on the system as a technician, would that surprise you?  
 7 "Answer: Yes, it would surprise me because he is  
 8 not a lab technician, he is a handyman."  
 9 What's Mr Barnes' point there, do you know? I know  
 10 you weren't there.  
 11 A. Well, I wasn't there.  
 12 Q. It's perhaps unfair of me. You don't know whether --  
 13 A. I wasn't there, I can't speak for it.  
 14 Q. Okay. As to Mr Ferguson's involvement, which is of  
 15 course another issue, if you go to page 981, you see  
 16 these questions and answers, the way they are put here  
 17 as questions and answers? I know you weren't there, and  
 18 we won't be hearing from the people who were. Are you  
 19 suggesting that this is setting out every question and  
 20 answer given, or is this just the edited highlights that  
 21 Mr Barnes wanted?  
 22 A. These are all the questions as they came out.  
 23 Q. How do you know that, Mr McAlindon?  
 24 A. Because that's the standard way that we record  
 25 interviews, we record interviews by -- on a laptop,  
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1 typing down the question, presenting it to the  
 2 individual, individual responds, answer's written in,  
 3 and everything is written down.  
 4 Q. What about if Mr Barnes led a certain question, the  
 5 witness said "Yes, if you say so", and then it was  
 6 written down as an open question and an open answer?  
 7 Did that ever happen?  
 8 A. Sorry, I don't understand your question.  
 9 Q. Is the way in which the question is put accurately  
 10 recorded, do you say, in every case?  
 11 A. I believe so.  
 12 Q. Right. So can we go, then, to Mr Morris, 987.  
 13 Mr Morris, line 21, page 987, do you see that? It's  
 14 a much shorter statement from Mr Morris, only two pages  
 15 effectively.  
 16 A. Yes.  
 17 Q. Line 21:  
 18 "Godfrey is holding the meeting. This was not  
 19 unusual as he usually holds the meetings anyway."  
 20 So Mr Morris' evidence seems to be that Mr Vos is  
 21 the man who holds staff meetings?  
 22 A. Correct.  
 23 Q. You must have factored that into your assessment of the  
 24 extent to which Mr Vos provided work?  
 25 A. I think all of the things that you have referred to we  
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1 factored in because --  
 2 Q. You just don't mention them?  
 3 A. I think all of the things you mention were factored in,  
 4 insofar as we recognised, and I think it's reflected in  
 5 the investigation summary, that he did work in the  
 6 business. What we questioned was the extent of the work  
 7 that he did and to what extent he fulfilled his  
 8 contractual hours, and to what extent the overtime  
 9 payments were justified. But I don't think at any point  
 10 we didn't accept or reflect that work was done, and he  
 11 had a great influence in the business.  
 12 Q. If you just go down a little, then, to line 30, we are  
 13 talking about John the handyman now:  
 14 "Looking back into this conversation and  
 15 understanding now what you have told me in my previous  
 16 record of conversation ..."  
 17 Do you see that?  
 18 A. Yes.  
 19 Q. What's that a reference to? (Pause) Do you know?  
 20 A. Sorry, I am just reading the whole thing, if you don't  
 21 mind. (Pause) I don't know.  
 22 Q. No. The question that Mr Barnes asks, 34:  
 23 "Is it fair to say that even now you cannot  
 24 reconcile why he is being paid so regularly and for the  
 25 amount of money that he has been paid?"

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1 That's a somewhat leading question, isn't it, from  
 2 Mr Barnes, Mr McAlindon? Is that a leading question?  
 3 A. Could be construed as that.  
 4 Q. Could it be construed another way?  
 5 A. I don't know.  
 6 Q. No. All right. So that's Mr Morris' statement there.  
 7 Ms Davies is at page 991.  
 8 MR POTTS: My Lord, I am sorry to interrupt. My friend put  
 9 a question about reference to a previous conversation.  
 10 There is another interview which is in the bundle with  
 11 this witness, with Mr Morris, but my friend hasn't --  
 12 MR JUSTICE HILDYARD: Were you going to come back to that?  
 13 MR STUART: My Lord, given that the witness said he didn't  
 14 know, I wasn't going to come back to it, no.  
 15 MR JUSTICE HILDYARD: No, but I notice that in the --  
 16 MR STUART: I am perfectly happy for it --  
 17 MR JUSTICE HILDYARD: There was a reference from the first  
 18 question "further to the last conversation we had", and  
 19 I was wondering whether -- is there a record of that?  
 20 MR STUART: I am told by my learned friend it's at 9 --  
 21 MR POTTS: 974-1, my Lord, in E4.  
 22 MR STUART: I don't have a 974, my Lord, I am sorry.  
 23 Mr Winn-Smith doesn't have a 974-1 either.  
 24 MR POTTS: Does your Lordship have it?  
 25 MR JUSTICE HILDYARD: Yes, I do.

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1 MR POTTS: My Lord, it was provided. They have got it.  
 2 (Pause)  
 3 MR STUART: Do you have it?  
 4 A. The previous -- the interview record that he was  
 5 referring to, yes, it's here.  
 6 Q. Why did Mr Barnes go back to Mr Morris? (Pause). Do  
 7 you know? Perhaps you don't know.  
 8 A. Well, a very quick flick through the first record,  
 9 I don't see any reference to the meeting that was held  
 10 before the suspension, and yet the second interview  
 11 immediately questions about that meeting and his  
 12 recollection of it. So I can only assume that he went  
 13 back to ask those questions relating to the interview  
 14 that took place before they went into the store.  
 15 Q. Okay. If you go to 974-2 at the bottom. We don't have  
 16 numbering I don't think on my version of it, but at the  
 17 bottom of 974-2 we are dealing with the question of  
 18 Godfrey's time. Do you see that?  
 19 A. Yeah.  
 20 Q. This is what Mr Morris says here:  
 21 "Question: In terms of Godfrey, how often does he  
 22 come in?"  
 23 Do you see that?  
 24 A. I do.  
 25 Q. Then:

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1 "Answer: Monday, Tuesday, Wednesday and Friday,  
 2 that's four days a week."  
 3 Do you see that?  
 4 A. Correct.  
 5 Q. :  
 6 "Question: When he comes in on those four days what  
 7 times does he come in and what time does he go?  
 8 "Answer: He comes in around 9.30 and will stay  
 9 until midday ..."  
 10 So that's two and a half hours, isn't it,  
 11 Mr McAlindon? Work it out.  
 12 A. I take that.  
 13 Q. 9.30 to 12 noon, two and a half hours a day, for four  
 14 days:  
 15 "... then disappear until 4 to 4.30 until we close  
 16 at 5.30", so he is in for another hour to hour and  
 17 a half each afternoon?  
 18 A. Correct.  
 19 Q. So that's four days of three and a half to four hours  
 20 a day in store; do you see that?  
 21 A. I see that.  
 22 Q. So that is 14 to 16 hours in store; do you see that?  
 23 A. I see that.  
 24 Q. Was that the conclusion you reached as to the amount of  
 25 time he was spending?

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1 A. I don't know.  
 2 Q. Mr Vos I'm talking about, in store, actually in store?  
 3 A. I don't know, if you let me just -- where is the  
 4 reference to it in the summary?  
 5 Q. E5/1265, do you remember, is the investigation report?  
 6 A. Yes.  
 7 Q. Go to the bottom of 1268, right at the bottom, your  
 8 conclusion that you drafted:  
 9 "In summary, the evidence of the staff interviewed  
 10 therefore suggests that WV's level of attendance at the  
 11 Bognor store is between 6 hours and 16 hours."  
 12 Mr Morris' evidence is the upper level, is that what  
 13 you are saying, 16 hours?  
 14 A. I am assuming -- yeah, I would assume that's correct.  
 15 Q. Taking his evidence, though, would it not be possible  
 16 that Mr Vos might be working more than 16 hours?  
 17 A. It is possible.  
 18 Q. It is possible, okay, that's fine.  
 19 The next witness was Gemma Davies. We are in E4 at  
 20 991. Do you see that?  
 21 A. Yeah.  
 22 Q. She has actually only been in the store not very long,  
 23 has she? Look at lines 13 and 14?  
 24 A. Correct.  
 25 Q. Anyway, let's see what her overall impression is. She

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1 has only just arrived, she has been there five months by  
 2 the looks of it; yes?  
 3 A. Correct.  
 4 Q. Yes:  
 5 "Question: Since you have been in the store, have  
 6 you noticed a difference between this store and the  
 7 Crawley one?"  
 8 That was her previous one:  
 9 "Answer: Yes, definitely, Godfrey controls  
 10 everything and all decisions go through him."  
 11 Do you see that?  
 12 A. I do.  
 13 Q. "It's Godfrey's way or no way."  
 14 Do you see that?  
 15 A. I do.  
 16 Q. "Helle and Barry are directors but don't have any  
 17 influence or impact on the shop floor."  
 18 So she is actually saying that Godfrey is absolutely  
 19 controlling this business, isn't she?  
 20 A. She is saying that.  
 21 Q. "Managers' meetings take place but Helle doesn't conduct  
 22 these meetings. All meetings are held by Godfrey."  
 23 So he does all the meetings as well as making all  
 24 the decisions?  
 25 A. Correct.

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1 Q. "Helle will be at the meetings but doesn't say anything.  
 2 Barry is also a director but he is just classed as  
 3 a senior dispenser at best."  
 4 Do you see that?  
 5 A. I do.  
 6 Q. "Barry always tells me to ask Godfrey. This was  
 7 frustrating because I had to wait until Godfrey was  
 8 actually in the store as opposed to being able to deal  
 9 with issues there and then."  
 10 Do you see that?  
 11 A. I do.  
 12 Q. Further on down at 35:  
 13 "I find it really difficult to understand as Barry  
 14 is the director and has a financial investment yet has  
 15 no input. Godfrey calls the shots."  
 16 So it's pretty clear, isn't it, from the staff, the  
 17 ones we have seen so far, that the entire operation of  
 18 this store is being run by one person?  
 19 A. It's being controlled by one person, yes.  
 20 Q. On an absolutely controlling basis, controlling every  
 21 decision?  
 22 A. Control, yes.  
 23 Q. Every meeting, he does the talking?  
 24 A. That's --  
 25 Q. Every staff member who needs to buy something or has

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1 a day off or has an issue, it all has to go directly to  
 2 Godfrey?  
 3 A. I don't dispute that that's what the employees are  
 4 saying.  
 5 Q. How does he do all of that in the time that you say he  
 6 spends working for this store?  
 7 A. Erm --  
 8 Q. Are you saying that you can run one of these stores in,  
 9 what, a total I think on your basis of about 16 to  
 10 20 hours a week?  
 11 A. Well, that's not on my basis, there are two aspects to  
 12 this, there is the scale of control and influence that  
 13 he had, which all of the employees say is substantial,  
 14 which I accept, but they also say when you ask them how  
 15 many hours a week he worked that is it within certain  
 16 parameters, and those parameters were less than his  
 17 contracted hours. So the --  
 18 Q. But that's in store, isn't it?  
 19 A. So the issue that we were raising in the investigation  
 20 summary was not his ability to control and direct, in  
 21 whatever role he was in, it was basically his  
 22 attendance, and his attendance against his contracted  
 23 hours, which are different things.  
 24 Q. Being in the store is not necessary, is it, if you are  
 25 overseeing all the contracts and everything else, all of

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1 the admin?  
 2 A. I've never come across anybody that doesn't perform  
 3 their work inside the store.  
 4 Q. You have only ever come across employees.  
 5 A. At this time, he was an employee.  
 6 Q. Yes. You have never come across practice managers of  
 7 the type like this, have you?  
 8 A. Because nobody else in the business operates in this  
 9 way.  
 10 Q. Right. He's operating in what you think is a unique  
 11 way?  
 12 A. I would agree with that.  
 13 Q. But the amount of actual stuff that he's doing, running  
 14 the whole store, do you seriously --  
 15 A. You say --  
 16 Q. -- say that can be done in less than 20 hours a week?  
 17 A. You say the stuff that he's doing, what he is doing is  
 18 controlling and influencing, which is different to the  
 19 tasks that he physically performs and the hours that he  
 20 works.  
 21 Q. But how can you tell what hours he works, Mr McAlindon?  
 22 A. We have gone into the business, and we have spoken to  
 23 all of the employees to get an understanding of how they  
 24 believe what hours he works in the store, and we have  
 25 looked for additional paper trails and electronic trails

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1 which would indicate and support whether or not he was  
 2 doing all the work that was being purported to be done.  
 3 Q. Okay, the paper trails. Did you consider all of the  
 4 letters that were written for the store over a five-year  
 5 period, let's say?  
 6 A. Well, we looked for all documentary evidence, both  
 7 electronic on the store's computer and from a paper  
 8 perspective in the building, and we considered those  
 9 documents, but there were very few physical documents,  
 10 and by the time we came in, the computer had no  
 11 documents, so it was impossible to quantify, unless  
 12 Mr Vos produced a hard drive and said "Actually I do all  
 13 my work from home and there is my work", it's impossible  
 14 to quantify.  
 15 Q. If it's impossible to quantify, you can't quantify that  
 16 what he is saying is a lie?  
 17 A. But there is no supportive evidence to suggest that it's  
 18 true.  
 19 Q. There is, there is all these witnesses saying that he  
 20 does everything, all of the letters that have been  
 21 written have been written by him?  
 22 A. But there are only -- when we refer to "there are lots  
 23 of letters", he does write all the letters, which you  
 24 can see from the documents that have been produced, they  
 25 tend to be, you know, a number of letters to patients,

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1 and that would obviously take some time, but that in  
 2 most businesses is a small fraction of the work that any  
 3 manager would do, and they would also be heavily  
 4 involved in the use of the system in one aspect or  
 5 another. Whether that be to log on to the system to  
 6 look at how business processes are managed, how finances  
 7 are managed, there are a myriad of things that they  
 8 would do outside of writing letters to patients.  
 9 Q. Mr McAlindon, it's somewhat ironic, isn't it, you are  
 10 here complaining that you don't have enough paper  
 11 evidence of what Mr Vos does, and that because there is  
 12 no paper evidence that is somehow evidence that he  
 13 doesn't do anything?  
 14 A. No, I am saying that there was no -- there was very  
 15 limited paper evidence available to enable us to find  
 16 supportive evidence that what he was saying was correct,  
 17 but there was an absence of any other form of electronic  
 18 trail or otherwise in the business.  
 19 Q. That's rather like you sitting here now, isn't it,  
 20 telling us that all of this stuff happened but you can't  
 21 produce to us a single email when I ask you, and you say  
 22 "Well, we don't use emails."  
 23 A. I can't comment on your analogy.  
 24 Q. You haven't produced any documents yourself because you  
 25 do nothing, you do no work for a year?

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1 A. I think the difference is if somebody were to ask me to  
 2 try and quantify what I did, I could produce hundreds  
 3 and hundreds of pieces of paper that would support what  
 4 I did.  
 5 Q. No, you can't, I have asked you to produce the paper and  
 6 there is none.  
 7 A. You have asked me to produce specific paper relating to  
 8 this case --  
 9 Q. Yes.  
 10 A. -- but not specific paper or other work that we were  
 11 doing in terms of my general day-to-day. This is one  
 12 aspect of my role and my -- and the activities that  
 13 I perform. But I also perform lots of other roles and  
 14 produce an awful lot of paperwork, and if somebody had  
 15 sat me down and said "Your explanation is inconsistent  
 16 with the evidence that we have, for example there are no  
 17 electronic records", I could say "Actually, that's not  
 18 a problem", I could produce my entire archive which has  
 19 every document I have ever written and there is hundreds  
 20 of thousands of them. And you can from that quite  
 21 easily quantify whether or not I am actually working  
 22 consistently, because you can look at the properties of  
 23 the files and so on and so forth. It's not hard to  
 24 quantify what I do, which is very different to the  
 25 situation we are in here where there was nothing that

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1 helped you quantify what a manager in that role would  
2 do.  
3 Q. There is plenty of evidence as to what he was actually  
4 doing, all the time, in this store, isn't there? Or did  
5 you not bother to check any of that evidence?  
6 A. No, everything was checked and I disagree with your  
7 point of view.  
8 Q. Okay, so did you check, for example, his involvement in  
9 the very large computer upgrade that took place in the  
10 six months prior to this, so 2010, the SOCRATES system  
11 got brought in, didn't it?  
12 A. Yeah.  
13 Q. It was a big issue for Specsavers?  
14 A. Correct.  
15 Q. And the person at the Bognor Regis store who dealt with  
16 that was who?  
17 A. I don't know. I am assuming --  
18 Q. Why not?  
19 A. Because I wasn't in the store when SOCRATES 3 was  
20 released and rolled out. However, in respect of that,  
21 SOCRATES 3 when it was rolled out was rolled out with  
22 training courses that were provided by Specsavers that  
23 employees could attend and be taught how to use the new  
24 system, all those services were actually provided free.  
25 So when given that answer. It was found to be

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1 slightly -- I found it implausible because --  
2 MR JUSTICE HILDYARD: Found it?  
3 A. Sorry?  
4 MR JUSTICE HILDYARD: Could you repeat that?  
5 A. I found it implausible that he could have done a vast  
6 amount of work in respect of the version 3 roll-out  
7 because of all the support and infrastructure that was  
8 provided to all stores to facilitate that. There wasn't  
9 a requirement for huge intervention by other people that  
10 would have justified huge gaps in work.  
11 MR STUART: How many hours of work do you say Mr Vos did on  
12 the SOCRATES, overseeing the entire SOCRATES --  
13 A. I didn't, I would have to refer to his statement or  
14 wherever he says how much he did.  
15 Q. Okay, and then you presumably checked to see whether he  
16 was involved, so if you go to E3, for example, page 690.  
17 This is in the middle of an email exchange between  
18 Dr Poulsen and Mrs Hart, who is in charge the  
19 communications department, this level of it anyway.  
20 This is July 2010. Do you see it, page 690?  
21 A. Yeah.  
22 Q. There is an issue arisen as to what somebody was told  
23 about SOCRATES and various -- and complaints being made.  
24 If you go to 690, the fourth paragraph:  
25 "For record purposes, Barry Weller is not involved

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1 with the SOCRATES upgrade as he does not understand  
2 computer systems ..."  
3 Do you see that?  
4 A. Yes.  
5 Q. "... and is in any event going on holiday"?  
6 A. Yes.  
7 Q. "Godfrey is overseeing the upgrade."  
8 A. Correct.  
9 Q. Do you see that?  
10 A. Yes.  
11 Q. Next paragraph:  
12 "We have spent a lot of time and effort on this  
13 upgrade."  
14 Do you see that?  
15 A. Yes.  
16 Q. There is plenty of other evidence of his dealing with  
17 that entire -- as an example -- issue. Where do you  
18 factor this sort of evidence into your conclusions,  
19 Mr McAlindon, or don't you?  
20 A. No, we, during the interview with Godfrey, asked him to  
21 take us through at a task level what activities he  
22 performed, and we also took statements from the  
23 employees who, if he had spent hours and hours and hours  
24 in the store, as is being inferred here, working on the  
25 SOCRATES 3, one would have expected to have come out

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1 somewhere from the employees' statements, and it wasn't  
2 reflected. Not necessarily the version 3, but as  
3 a generalism with the activities that are being  
4 purported to being completed, they are not reflected in  
5 what the employees said.  
6 Q. Just going back, nine months from that, do you remember  
7 in 2009 we had all of the stuff from Mr Jason North when  
8 he did his investigation in 2009?  
9 A. Where are you referring?  
10 Q. E3, as an example, page 556 and 563 perhaps is the  
11 conclusion that we could quickly go to.  
12 A. Sorry, what are you referring to on --  
13 Q. So this is Mr Jason North of Specsavers report on the  
14 grievance, this is the grievance that is referred to in  
15 Mr Ben Walls' summary document, investigation summary.  
16 Grievance relating to Jena Laker. Mr North has gone in,  
17 interviewed all the staff, do you remember? 563 under  
18 the heading "Allegations surrounding the confusion over  
19 the roles of the directors". So that would appear to be  
20 a pertinent line of inquiry; yes?  
21 Mr North's conclusion:  
22 "GV role is confirmed by DW and HP."  
23 This is two years before you are getting involved,  
24 so this is not self-serving, do you understand,  
25 Mr McAlindon?

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1 A. No, I don't.  
 2 Q. This is two years before the issue is being raised about  
 3 Mr Vos' invoicing payments.  
 4 A. Yes.  
 5 Q. "GV is confirmed by DW and HP as a supporting role to  
 6 themselves in running the business. GM confirms that  
 7 there is some confusion regarding GV's exact role."  
 8 Do you see that?  
 9 A. Sorry, no, I can't, where are you referring? Section 8,  
 10 is it factual conclusion?  
 11 Q. Yes. (Pause). So the issue of his role has been  
 12 raised. If you go to 565 there is a finding by  
 13 Mr North, it says:  
 14 "Findings on grievance."  
 15 Do you remember?  
 16 A. No, I have no recollection of this, this isn't  
 17 a document I was involved in.  
 18 Q. Okay, you must at least then have -- close up E3, we  
 19 won't bother with E3 if you say you haven't -- you say  
 20 you didn't each bother with that. E2, you must have had  
 21 this, page 541, this was the notice that was up on the  
 22 notice board, and this is the second version of the  
 23 notice because Specsavers had pointed out that this got  
 24 specifically amended to this version. 541 in E2, this  
 25 must have been up on the notice board when Mr Barnes

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1 went in with his camera?  
 2 A. I believe so.  
 3 Q. 541. So with the assistance of Mr North, but also with  
 4 the other staff at the time, this was put up to set out  
 5 what their roles were; do you see?  
 6 A. I see.  
 7 Q. Mr Vos' role, as the business practice manager, he does  
 8 the general business and retail operations and strategy,  
 9 he does all the financial control, which plainly he  
 10 does, there is no other person in this store doing  
 11 financial control, is there?  
 12 A. I don't disagree that he --  
 13 Q. Human resources, he plainly does all the human resources  
 14 for all of these staff, doesn't he, training, he  
 15 organises timetables?  
 16 A. I don't disagree with anything that you are saying. He  
 17 controlled the business in many respects.  
 18 Q. Not just controlled from above like Mr Dyson, giving out  
 19 orders, he physically did it himself, didn't he? He  
 20 physically did the financial control himself, Mr Vos  
 21 did?  
 22 A. I suppose it depends on how you interpret financial  
 23 control.  
 24 Q. Try and interpret it in a reasonable fashion.  
 25 A. Well, my view of a reasonable interpretation of

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1 controlling finances would be, for example, NHS debtor,  
 2 financial controls surrounding that would be to look at  
 3 the claims made and the subsequent rejected payments and  
 4 reconciling and taking out those payments that had been  
 5 rejected, it would be looking into why they were  
 6 rejected, the underlying causes, which could be a manual  
 7 error, incorrect coding, it could be a variety of things  
 8 or the fact that the PCT doesn't believe they are  
 9 controlled, and if there are patterns in there where  
 10 people are getting things wrong, then you would go and  
 11 deal with the patterns.

12 The problem with this is that this controlling the  
 13 finances in respect of NHS debtor, which is one of the  
 14 biggest financial drives into the business, requires  
 15 somebody to physically go in and work on that system.  
 16 And that is quantifiable very clearly, and most partners  
 17 who are involved in financial control, there are  
 18 a number of aspects that you can see where they leave  
 19 their electronic fingerprints that allows you to say:  
 20 yes, they are controlling that aspect. This is  
 21 controlled from a higher level, which is telling people  
 22 what to do, and it doesn't necessarily equate to the  
 23 amount of time that has been spent in store or the  
 24 amount of hours physically worked.

25 Q. That's just one issue, isn't it, NHS control? The

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1 financial control of this business, we have seen from  
 2 the staff's own --  
 3 A. I am not disputing that he controls finance.  
 4 Q. And --  
 5 A. And I am also not disputing that he does work hours in  
 6 the store.  
 7 Q. And outside the store?  
 8 A. There was no evidence from the employees that tended to  
 9 support that, and it would be difficult to perform  
 10 substantial activities outside the business environment.  
 11 Q. Well, he could oversee strategy. I am reading the list  
 12 now of the things Mr North says he does. He could  
 13 oversee strategy and operations, couldn't he?  
 14 A. He could.  
 15 Q. Outside?  
 16 A. He could.  
 17 Q. He could do his financial controls, for example the  
 18 invoices, checking the invoices, which is what he  
 19 describes doing, back in his home office, he could do  
 20 it --  
 21 A. Again, the -- for example, the controlling of invoices,  
 22 95 per cent of our invoices are generated electronically  
 23 through electronic orders, and the invoices come in from  
 24 our approved suppliers. Don't get me wrong, there will  
 25 be variances within those where things go wrong, but the

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1 amount of money that's involved is minute compared to  
 2 the amount of labour that would have to go in to find  
 3 those variances. So to suggest there was a vast amount  
 4 of work to do with processing invoices is not really  
 5 realistic.  
 6 Q. Nobody said a vast amount of work doing invoices --  
 7 A. No, but the inference --  
 8 Q. Mr McAlindon, doing invoices might take, what, half  
 9 an hour a week, an hour a week?  
 10 A. I don't even think that.  
 11 Q. All human resources matters, employment of staff,  
 12 finding of locums. We know that he did all of these  
 13 things, don't we?  
 14 A. There are locum services that provide locums, it's  
 15 a phone call.  
 16 Q. He is the man who, in this store, sourced the locums,  
 17 worked out when a locum was required, did all the  
 18 timetabling, et cetera?  
 19 A. Yeah.  
 20 Q. Disciplinary matters, staff matters, we have seen plenty  
 21 of evidence that he was the man who --  
 22 A. Again I don't dispute, I don't dispute --  
 23 Q. You don't dispute. Staff grievances.  
 24 A. My Lord, I don't dispute that these activities actually  
 25 took place. I think the question is: how many hours did  
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1 those activities take? Most of these activities, when  
 2 you put them into a long line, are not hugely time  
 3 consuming. So the interpretation in the report is that  
 4 the explanations given are not consistent with the  
 5 employees' statements or the volume of work that's been  
 6 purported to be done at home.  
 7 Q. That's just a generalised statement. I am asking you:  
 8 how much time do you think is spent in carrying out all  
 9 the human resources elements for this store? How many  
 10 staff did they have?  
 11 A. I think it was about ten.  
 12 Q. And locums and part-time staff?  
 13 A. From memory of the payroll report, but I would have to  
 14 refer to it, I am guessing about ten.  
 15 Q. All the employment contracts for those?  
 16 A. I don't know.  
 17 Q. And disciplinary matters, how many disciplinary or  
 18 grievance matters were there, let's say in the two years  
 19 2009 to 2011 which is the two years you are saying --  
 20 A. We recovered some personnel files and there were some  
 21 grievances in there, I don't know how many were in  
 22 there.  
 23 Q. Okay, staff scheduling and holidays, how long do you  
 24 think it takes, each week, for somebody to actually do  
 25 all the scheduling of all the staff and make sure that  
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1 there are the right number of the people in the store  
 2 all the time?  
 3 A. I don't know, I don't know.  
 4 Q. If you don't know, how can you make the statement that  
 5 you did that he didn't spend the time? If you don't  
 6 know, you don't know.  
 7 A. Because the list that was given -- can you refer me to  
 8 the list of activities that he listed?  
 9 Q. What, when he came for his interview?  
 10 A. Yes.  
 11 Q. I can take you to his interview if you want to, but I am  
 12 asking you about this list anyway for the moment.  
 13 A. Okay.  
 14 Q. You accept he does do all of these things?  
 15 A. I have from the start.  
 16 Q. Outside of the hands-on stuff with the staff, you also  
 17 accept that he does meetings with the directors?  
 18 A. Correct.  
 19 Q. We have heard about them.  
 20 A. Yeah.  
 21 Q. Obviously he deals with all the holidays. He has  
 22 provided his telephone number at his home address,  
 23 hasn't he? You knew that was at his home address?  
 24 A. I believe so.  
 25 Q. So to say that he is not contactable 24 hours a day is  
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1 not quite right, is it? He is contactable?  
 2 A. I don't believe I have said that he was not contactable  
 3 24 hours a day.  
 4 Q. Okay. On one basis one might say he is on call 24 hours  
 5 a day, then. Should he not be given some credit for  
 6 those hours?  
 7 A. I don't know what hours would be that 24-hour period  
 8 he's been called.  
 9 Q. That doesn't matter, does it? An emergency might arise  
 10 at 9 o'clock in the morning or 3 in the afternoon?  
 11 A. It might, but they are unqualifiable. Nobody has given  
 12 us any information that would tend to suggest that those  
 13 phone calls were actually taking place.  
 14 Q. Okay.  
 15 A. Hence why we interviewed the employees.  
 16 Q. Do you agree that he was the line manager of  
 17 Sarah Scott?  
 18 A. I believed he controlled everybody.  
 19 Q. Alan Verrell?  
 20 A. I've answered the question. I believe he controlled  
 21 everybody.  
 22 Q. The contact lens and the optical lab, Mr Morris himself  
 23 then?  
 24 A. I believe that he controlled everybody.  
 25 Q. Yes. You still say he was not working 24 hours a week?  
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1 A. I am saying that the statements from the employees  
2 suggested that he was instore working between a range of  
3 hours, and that nobody gave any explanation that tended  
4 to support that there was a lot of activity going on  
5 outside, ie phone calls into them regularly. So hence  
6 why we believed that he was not doing much work. He may  
7 well have done some, but not enough to hit his  
8 contractual hours or the overtime.  
9 MR STUART: My Lord, I see the time, I don't know whether  
10 that's an appropriate moment for the break for the  
11 shorthand writers?  
12 MR JUSTICE HILDYARD: Right. Twenty past.  
13 (3.07 pm)  
14 (A short break)  
15 (3.23 pm)  
16 MR STUART: Mr McAlindon, we are in E4, I think we were at  
17 992, weren't we, that was the second page of  
18 Gemma Davies' statement. Do you recall?  
19 A. Yeah.  
20 Q. This interview lasted five and a half hours, didn't it?  
21 Page 991.  
22 A. Four and a halfish.  
23 Q. Sorry, quite right, four and a half hours. 995, meeting  
24 ended at 1745. So four and a half hours, it's not all  
25 in this note, is it? This is a note of the meeting?

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1 A. This is a contemporaneous record.  
2 Q. Yes, but it's a summary at best, it can't be everything  
3 she said. Four and a half hours, in less than five  
4 pages?  
5 A. It depends how good a typist you are.  
6 Q. Are you suggesting this is everything she said?  
7 A. I have no reason to think anything different. It would  
8 depend how good a typist Ben Walls was, and he is not as  
9 quick as other people, but there is no reason why  
10 anything would be left out, unless there is breaks in  
11 there, and I haven't flicked through it, but ...  
12 Q. I am sure there would be breaks, she couldn't have sat  
13 in a -- this is held in a testing room?  
14 A. Yes.  
15 Q. Is that one of those rooms where it is all dark and  
16 enclosed?  
17 A. It has lights on.  
18 Q. Of course, but there is no windows?  
19 A. No.  
20 Q. Okay. Let's move on swiftly to Mr Verrell, the next  
21 witness. He is at page 997. Do you see that?  
22 A. I do.  
23 Q. We see Mr Verrell, again he seems to be giving similar  
24 evidence, if you look at the bottom of 997, basically  
25 Mr Vos is in control, isn't he? Mr Weller is seen only

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1 as a senior dispenser, bows down -- I am over the page  
2 at 998 at the top -- to Godfrey. 998 at the top,  
3 line 34:  
4 "AV told PB that he knew that this year BW has had  
5 a lot of time out of the business."  
6 Do you see that?  
7 A. I see that.  
8 Q. So it does look right, doesn't it, when Mr Vos is  
9 contending that he has had to take on much of  
10 Mr Weller's managerial, executive managerial role,  
11 because Mr Weller has taken a step back from the  
12 business? That does look to be sorted by all the  
13 evidence, doesn't it?  
14 A. (Pause). Not necessarily, because the inference here is  
15 that this employee is referring to Barry Weller as  
16 a dispenser, and Mr Vos wouldn't have filled in for  
17 Mr Weller as a dispenser.  
18 Q. No, of course.  
19 A. So that's slightly misleading, to say that he took over  
20 all his roles, because everything here says that he was  
21 no more than a senior dispenser.  
22 Q. I didn't say all his roles. I said his executive  
23 managerial roles. Do you remember the question I put to  
24 you? He is the retail director, isn't he --  
25 A. I understand that, what I am saying is that the

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1 employees are clearly saying that he has been stripped  
2 of his managerial roles in a lot of respects, and  
3 therefore when he's out for three weeks, the gap that  
4 needs to be filled is actually a dispensing gap rather  
5 than his managerial role, and it wouldn't be  
6 significant.  
7 Q. The retail director side of his role, not the dispensing  
8 side of it, but the actual retail director part of his  
9 role has been taken away from him by Mr Vos?  
10 A. Yeah.  
11 Q. Yes, okay, thank you. This interview, almost four hours  
12 we see from page 997?  
13 A. Correct.  
14 Q. Are you suggesting that this, six and a bit pages, from  
15 997 to 1004, are all the -- is everything that was said  
16 in four and a half hours?  
17 A. I am not suggesting anything. However, I note that, for  
18 example on page 999, there are three occasions when some  
19 discussions took place that were -- and the discussions  
20 have been summarised. So it wouldn't be unreasonable to  
21 say that that's a summary of their conversation and it  
22 probably took a fair length of time.  
23 Q. Okay. As regards Mr Ferguson, this witness did see  
24 Mr Ferguson occasionally, didn't he, including attending  
25 in evenings? This is on page -- under the heading

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1 "John Ferguson" -- 999 that you just went to, line 85,  
2 it says "Discussion re: John Ferguson". Do you see  
3 that?  
4 A. Yes.  
5 Q. I think you are saying this would be a summary --  
6 A. Correct.  
7 Q. -- of a conversation about that. We don't know exactly  
8 what was said by anybody.  
9 "AV advised that John Ferguson was the store's  
10 handyman."  
11 So he was the store's handyman?  
12 A. Correct.  
13 Q. "He has undertaken work for the store from repairing  
14 a roof to fitting out the lab."  
15 So he actually fits out the lab, according to the  
16 man in charge of the lab; isn't that Mr Verrell's --  
17 A. No, that's correct.  
18 Q. Mr Verrell had the role of running the lab. So then it  
19 seems that he's seen him there of an evening; is that  
20 right?  
21 A. Yeah.  
22 Q. Okay.  
23 A. Two to three times a month.  
24 Q. Skipping to near the end, 1002, just to see the level of  
25 detail that Mr Vos must -- you made the point in  
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1 a question just before we broke --  
2 A. Sorry, could I just go back to your previous question if  
3 you don't mind?  
4 Q. Yes.  
5 A. Verrell goes on to qualify that the visitation of the  
6 store outside of trading hours was during a period where  
7 he was repairing the roof and fitting the lab in 2008  
8 and 2009, and that was outside of hours so as not to  
9 disrupt the store activity. However, in the last year  
10 he had only seen him on one or two occasions, once to  
11 fix a panel that took 30 minutes, and once to change  
12 a plug on a heater. So he is saying that he saw him on  
13 a number of occasions, but that's during a specific  
14 period on a specific task. From a general perspective,  
15 he saw him very infrequently, would be my interpretation  
16 of what's being said there --  
17 Q. Of course, we don't know exactly what he said, do we,  
18 because this is not a comprehensive record of everything  
19 he said?  
20 A. No, no, I agree.  
21 Q. This is what Mr Barnes and Mr Walls noted that he said?  
22 A. It's a summary of the conversation that took place  
23 between them, and Mr Verrell has signed it as  
24 an accurate reflection of that conversation. He hasn't  
25 made any amends to that, despite signing it, and he  
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1 would have been given the opportunity to correct or  
2 alter or add anything that he wished to correct.  
3 Q. Turning then to 1002 and the question of how much  
4 information Mr Vos had. You make the point that the  
5 financial controlling type of information wouldn't be at  
6 his home. I am not sure you are right about that.  
7 Could you go to 1002? Let's take some detailed  
8 controlling. At 184, Mr Verrell says:  
9 "So that the business will look a lot more  
10 attractive when we go to sell it, recently we have been  
11 asked to record all patient names that we have  
12 dispensed. We had been recording at Godfrey's request  
13 the names of the customer, how much they spend. We have  
14 then had to put our name against the patient that we  
15 dispense. This is done for Godfrey to see who is making  
16 the most money."  
17 So it looks like Mr Vos is taking from the staff  
18 detailed financial information about each of them; isn't  
19 that right?  
20 A. That would look like a summary sheet that would give you  
21 a list of --  
22 Q. Okay.  
23 A. -- who is making the most money, which is a sheet that  
24 you could glance at and say "Actually that person is  
25 doing a great job, that person doesn't seem to be taking  
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1 as much".  
2 Q. The bottom line accounts that come out monthly that we  
3 have seen a few times?  
4 A. Yes.  
5 Q. There is a sort of summary two pages with a picture on  
6 and graphs, and then there is the actual accounting  
7 documentation, that might run to 20, 30 pages or so;  
8 those accounts are sent to the directors' home  
9 addresses, aren't they, not to the store?  
10 A. I believe so.  
11 Q. So all of that information, that sort of raw accounting  
12 information coming from Specsavers goes to Mr Vos at his  
13 home?  
14 A. Correct.  
15 Q. All of the invoices, the individual invoices from  
16 suppliers, Mr Ferguson's invoice which of course was  
17 prepared by Mr Vos we know, that was all available to  
18 Mr Vos at his home, wasn't it?  
19 A. As far as I understand, the invoices are posted to the  
20 store for authorisation.  
21 Q. They were not there when you turned up; is that right?  
22 A. No.  
23 Q. So they must have gone home?  
24 A. I don't know.  
25 Q. It's a fair presumption, isn't it?  
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1 A. I don't know.  
2 Q. So we have the accounting documents, the invoices, this  
3 sort of detailed stuff here; what other financial  
4 documents would the financial controller of the business  
5 need to have, according to you?  
6 A. (Pause). I am not too sure. I would have thought most  
7 of the documents and financial information that you  
8 would need to look at underneath those summary documents  
9 would be within the store systems.  
10 Q. Okay. All the records for the staff, for staff pay,  
11 salary information, timesheets, records, that sort of  
12 thing, that would be with Mr Vos, wouldn't it?  
13 A. I've no idea.  
14 Q. Have you not? Isn't that a big part of his job?  
15 A. That information is normally instore and inputted by the  
16 person in store.  
17 Q. Did you find it all in the store, then?  
18 A. No.  
19 Q. So perhaps it was all at his home?  
20 A. It could have been.  
21 Q. Your conclusion at E5/1286 in relation to this --  
22 A. Sorry, what page?  
23 Q. Do you remember I took you to it when we started this  
24 little wander through the evidence relating to Mr Vos --  
25 A. Which page?

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1 Q. Your conclusion at 1286. Do you remember? Fourth line:  
2 "Yet there is little evidence" --  
3 A. Sorry, where specifically?  
4 Q. Sorry, under the heading "Completion of contractual  
5 working hours by WV."  
6 A. Yes.  
7 Q. Second paragraph:  
8 "The employees' evidence is that he does not  
9 complete 24 hours instore" and indeed that's Mr Vos' own  
10 evidence. Do you see that?  
11 A. Correct. The employees and Mr Vos --  
12 Q. They both say he doesn't complete all his 24 hours in  
13 store?  
14 A. Correct.  
15 Q. "The employee's evidence is that WV's attendance ... is  
16 significantly less than 24 hours ... WV, HP and BW each  
17 state that WV completes the remainder of his contracted  
18 hours each week working from home."  
19 Okay?  
20 A. Right.  
21 Q. So that's the explanation for the difference between the  
22 time that the employees see him and the time that he is  
23 paid for?  
24 A. Correct.  
25 Q. The conclusion as to that is:

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1 "There is little evidence, if any, of WV completing  
2 any significant amount of work from home."  
3 A. Correct.  
4 Q. That's just simply not right, is it?  
5 A. No, I think it's a reasonable conclusion to come to, in  
6 that there was no documents that supported it.  
7 Q. There is lots of documents.  
8 A. There are some documents, and --  
9 Q. Well, all the documents that you have support the fact  
10 that Mr Vos was doing all of the control and running of  
11 this business, that's all the evidence you have from all  
12 the witnesses, and all the documents.  
13 A. But the summary is saying that there is little evidence  
14 of completing significant amount of work from home.  
15 Q. No, the summary is saying there is little evidence, if  
16 any. That's how high you put it?  
17 A. Of significant amounts of work from home.  
18 Q. No, "any significant", not just significant, "any  
19 significant"?  
20 A. "Any significant amount of work", yes.  
21 Q. Yes. So you are trying to say that if he is being for  
22 24 hours a week and he is doing 16 hours in the store,  
23 according to some of the witnesses, he is not doing any  
24 significant work at home and therefore he is lying and  
25 therefore it's fraud and dishonesty; that's your case

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1 according to this summary?  
2 A. No, I think it reflects the interviews that were done  
3 with the employees, who explained who performs different  
4 roles in terms of managing the day-to-day processing of  
5 information and again in their statements they were  
6 asked if Mr Vos took things home, did they ever see him  
7 walking out with big piles of paper or coming back with  
8 big presentations, and throughout those staff employee  
9 statements they were -- they never said anything that  
10 would suggest -- in fact if anything they contradicted  
11 and said "He couldn't possibly, he only ever leaves  
12 a few pieces of paper". So when I say that there is  
13 little evidence, there is no -- the evidence from the  
14 employees is consistent with that.  
15 Q. Let's look at the next witness, then, because this  
16 perhaps highlights the issue as best it can do,  
17 page 1006, Sam Butler. Do you see it, Sam Butler, 1006?  
18 A. I do.  
19 Q. She gives remarkably the same figures as some of the  
20 other witnesses, but anyway look at the question, 16:  
21 "Question: So about seven and a half hours a week?"  
22 Do you see that, line 16?  
23 A. Yes.  
24 Q. :  
25 "Answer: Yes, if you include an hour in the evening

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1 when he returns to pick Helle up.  
 2 "Question: In your opinion, could someone who is  
 3 responsible for the entire business perform their duties  
 4 by attending the store for only seven and a half hours  
 5 a week?  
 6 "Answer: No. I couldn't do my duties in that time,  
 7 so no, they couldn't."  
 8 So that's it, isn't it? Nobody is suggesting,  
 9 Mr McAlindon, that Mr Vos was not responsible for the  
 10 entire business, are they?  
 11 A. That's how the question is phrased.  
 12 Q. I know it was, because one line of cross-examination  
 13 that was certainly put to Mr Vos and Mr Weller and  
 14 a line of questioning that was put to Mr Vos during his  
 15 interview by you was that Mr Vos wasn't in fact running  
 16 this business at all. But I thought you had  
 17 acknowledged to his Lordship that you accept clearly all  
 18 of the evidence shows at the time -- available to you at  
 19 the time, he was running the business?  
 20 A. No, I accept that he was controlling the business in  
 21 many respects, and I also accept that he was doing work  
 22 inside that business. Was he running the entire  
 23 day-to-day? That's actually not possible, hence why you  
 24 have two joint venture partners, an ophthalmic partner  
 25 and a retail partner. Underneath the ophthalmic partner

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1 is a whole raft of running the day to day in terms of  
 2 managing professional issues, prescribing, there is  
 3 a whole raft of stuff in there, as well as the retailer  
 4 who does the sales floor and the general retail  
 5 management.  
 6 So to suggest that somebody is running the entirety  
 7 on their own, I don't think is a reasonable statement.  
 8 I accept without reservation that he was controlling the  
 9 financial side of the business and doing other work.  
 10 Q. You accept without reservation he was doing all of the  
 11 human resources side of the business?  
 12 A. Yes.  
 13 Q. You accept without reservation that he was advising the  
 14 directors about the commercial side of the business?  
 15 A. In some respects.  
 16 Q. Well, nobody else was.  
 17 A. No.  
 18 Q. And Dr Poulsen is a doctor?  
 19 A. Mm.  
 20 Q. And Mr Weller had taken a big step back from his retail  
 21 director's role, you have accepted those two things, and  
 22 therefore the only person left running the commercial  
 23 side of this business is Mr Vos; you accept that without  
 24 reservation?  
 25 A. To the extent that you can when you are not inside the

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1 business and actively working with the people on the  
 2 sales floor, yes. There is only so much you can do if  
 3 you are not there.  
 4 Q. Yes, and that is exactly what Mr Vos was saying he was  
 5 doing?  
 6 A. I don't dispute that.  
 7 Q. Sam Butler appears to agree. Look at lines 22 to 32 of  
 8 this note. Is this not Mr Barnes just putting things?  
 9 A. Sorry, where are you looking?  
 10 Q. Lines 22 to 32:  
 11 "Phil explained to Sam that with any type of  
 12 maintenance work you would expect to see high monthly  
 13 expenditure in one month followed by lows in expenditure  
 14 in another. PB [that's Mr Barnes] referred to its peaks  
 15 and troughs. PB advised Sam that in his opinion when  
 16 you are a homeowner you would not get consistent  
 17 problems whereby you require regular monthly visits. SB  
 18 agreed."  
 19 Do you see that?  
 20 A. I do see that.  
 21 Q. Is Mr Barnes trying to sort of lay the groundwork for  
 22 an argument that surely Mr Ferguson should have been  
 23 here more often?  
 24 A. It's difficult for me to comment on what he was thinking  
 25 when he asked the question.

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1 Q. Three lines from the bottom of that bit, 29:  
 2 "PB advised that if someone was being paid that  
 3 amount of money then you would expect to see him every  
 4 other ..."  
 5 This is just Mr Barnes' propositions and  
 6 suppositions, isn't it?  
 7 A. He's explaining his interpretation of what he sees in  
 8 the invoicing, and is asking her for an opinion on  
 9 whether or not his interpretation is reasonable or  
 10 unreasonable.  
 11 Q. Okay.  
 12 MR POTTS: My Lord, I am sorry, but within that there are  
 13 responses in here, it's not just Mr Barnes talking.  
 14 MR JUSTICE HILDYARD: Sorry, could you repeat?  
 15 MR POTTS: I am sorry, my Lord. Just within that section it  
 16 was put that these are just points coming from  
 17 Mr Barnes, but there are responses recorded from SB,  
 18 Ms Butler, I think.  
 19 MR STUART: So let's just move swiftly on to Sarah Scott,  
 20 who is presumably acknowledged to be the main witness,  
 21 is she? Mr McAlindon, Sarah Scott, she is the manager,  
 22 isn't she?  
 23 A. I believe so.  
 24 Q. She is directly, if you like, below Mr Vos certainly on  
 25 that page 541 document that we saw. She is at 1010,

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1 I should have said.  
 2 A. Yes.  
 3 Q. We start with a fairly interesting question at line 80:  
 4 "Question: What does he do?"  
 5 Talking about Mr Vos of course. Do you see that?  
 6 A. Correct.  
 7 Q. "Godfrey does anything to do with finance, accounts,  
 8 authorising bills and purchases, salaries,  
 9 administration of employment, contracts of employment  
 10 and payroll, rotas, and who is doing what on which day.  
 11 "Question: He controls the business finances?  
 12 "Answer: Yes.  
 13 "Question: He is the decision maker in terms of the  
 14 finance of the store?  
 15 "Answer: Yes. Even if it's a pair of rubber  
 16 gloves, any non-routine petty cash."  
 17 Do you see that?  
 18 A. I see that.  
 19 Q. So that has to be some time spent doing all of those  
 20 things?  
 21 A. I don't dispute that.  
 22 Q. Okay. The times that he's actually in the store tie in  
 23 with the other witness statements, some of the other  
 24 witness statements. 1012, let's see how Mr Barnes is  
 25 putting this, at line 97:

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1 "Bearing in mind that we believe he is contractually  
 2 falling short of his weekly hours in store by some  
 3 60 hours a month, on top of claiming overtime again  
 4 despite falling short of his contracted hours ..."  
 5 Do you see that?  
 6 A. Yes.  
 7 Q. "... in your opinion, could this person warrant  
 8 receiving around 20,000 of bonus in the last 12 months?"  
 9 Do you see that?  
 10 A. I see that.  
 11 Q. Isn't that Mr Barnes just putting forward an argument to  
 12 this witness, rather than a nice open straightforward  
 13 question?  
 14 A. I don't totally disagree with your point of view, but  
 15 it's very difficult for me to comment on what was in his  
 16 mind when he asked the question.  
 17 Q. He is trying to build up some evidence upon which to try  
 18 to assert that these payments of salary and overtime and  
 19 bonus to Mr Vos are in some way excessive; that seems to  
 20 be what he is trying to get to, isn't it?  
 21 A. He may be dealing with it clumsily.  
 22 Q. That's what Mr Dyson had told you was the position,  
 23 wasn't it?  
 24 A. Sorry, say that again.  
 25 Q. Mr Dyson had told you that the position was that Mr Vos

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1 was receiving payments way in excess of the work that he  
 2 actually did, and that there was even some question as  
 3 to whether he went to the store at all?  
 4 A. Correct.  
 5 Q. Or what work he did at the store at all?  
 6 A. Correct.  
 7 Q. So Mr Dyson's agenda for this investigation seems to be  
 8 being pursued by Mr Barnes, doesn't it?  
 9 A. No, I don't think it does. I think Mr Barnes is  
 10 pursuing his own lines of enquiries based on all the  
 11 payments, payroll information and invoices that he had  
 12 in his possession.  
 13 Q. Okay. I'll skip some stuff, I think we have got through  
 14 all of that. The last few witnesses I have dealt with  
 15 rather shortly. One of them, I wonder why.  
 16 Mr Yogaratnam, it's very short.  
 17 A. Page?  
 18 Q. Page 1038. Now, Mr Yogaratnam has been there,  
 19 page 1038, we heard from him, he started in  
 20 September 2007 as a locum and then he became employed  
 21 from December 2009, and so by mid-2011 he had seen how  
 22 this place works for four years, hadn't he?  
 23 A. I don't know.  
 24 Q. The question comes at the bottom, line 35.  
 25 Mr Yogaratnam volunteers the words:

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1 "Godfrey does everything. I am sure you have  
 2 already picked up on that. I wouldn't go to Helle  
 3 regarding pay or anything to do with remuneration.  
 4 Godfrey deals with all salaries. Helle may have signed  
 5 it when I did, but it was given to me by Godfrey."  
 6 Do you see that?  
 7 A. I see that.  
 8 Q. Why wasn't Mr Yogaratnam asked about the amount of time  
 9 that Mr Vos worked in the business?  
 10 A. I mean, I can only speculate on that because I wasn't  
 11 involved in these interviews. However, having read this  
 12 interview which focuses towards his pay and  
 13 remuneration, I suspect that Zoe Smith was asked to go  
 14 and clarify what his contractual agreement was, and why  
 15 he was paid what he was, because that's where she tends  
 16 to focus all of the questions, but I can only speculate  
 17 that that's the case.  
 18 Q. She is asking Mr Yogaratnam about his £80,000 that he's  
 19 been paid; is that right?  
 20 A. Where are you referring?  
 21 Q. Page 1039.  
 22 A. Line?  
 23 Q. Line 42:  
 24 "Question: Was Helle aware of how your pay was  
 25 structured?"

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1 "Answer: Helle and Barry were both aware that I was  
 2 being paid £80,000."  
 3 A. Yes.  
 4 Q. Do you see that?  
 5 A. Correct.  
 6 Q. Which is an awful lot more than your average  
 7 optometrist?  
 8 A. It's above the limit that's agreed as the national  
 9 ceiling for paying an optom and that's why she was there  
 10 asking the question.  
 11 Q. This store was of course doing very well, wasn't it?  
 12 A. Yes.  
 13 Q. Profit wise?  
 14 A. Yes.  
 15 Q. So it could (a) afford to pay a little bit more, (b)  
 16 perhaps wanted to keep Mr Yogaratnam because he was  
 17 an excellent optometrist who was very good at delivering  
 18 business; yes? Why shouldn't the same apply to Mr Vos?  
 19 He was an excellent practice manager who managed this  
 20 entire operation to such high levels of profit; why  
 21 shouldn't he also get overtime and bonus commensurate  
 22 with that?  
 23 A. The issues are the same in respect of both the  
 24 employees, in that the joint venture agreement specifies  
 25 that individuals over a certain salary, it requires

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1 prior approval by the B shareholder, and those limits  
 2 are set to control, you know, pay across the group. And  
 3 both Mr Vos' and Mr Yogaratnam's remuneration would have  
 4 been questioned because there wasn't any approval  
 5 process, and therefore they would have been questioned.  
 6 Q. The only other two witnesses we have are, 1024,  
 7 Bonnie Curtis.  
 8 A. 1024?  
 9 Q. 1024, Bonnie Curtis, who starts with the question:  
 10 "Question: What do you understand Godfrey's role  
 11 is?  
 12 "Answer: Godfrey is the boss."  
 13 "Question: Godfrey is the practice manager?  
 14 "Answer: My understanding is that Godfrey was in  
 15 charge."  
 16 Do you see that?  
 17 A. Sorry, which line numbers are you referring to?  
 18 Q. That starts at 15:  
 19 "Question: What do you understand Godfrey's role  
 20 is?  
 21 "Answer: Godfrey is the boss."  
 22 Do you see that?  
 23 A. Sorry, what page am I?  
 24 Q. 1024, did I not say that?  
 25 A. Sorry, no, I have got the wrong page.

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1 Q. Sorry, my fault, Mr McAlindon, 1024.  
 2 A. And the line number?  
 3 Q. Line 15:  
 4 "Question: What do you understand Godfrey's role  
 5 is?  
 6 "Answer: Godfrey is the boss."  
 7 A. Yes.  
 8 Q. :  
 9 "Question: Godfrey is the practice manager. Helle  
 10 and Barry are the directors?  
 11 "Answer: My understanding is that Godfrey was in  
 12 charge. I was told that Barry was on paper as a retail  
 13 director but Helle was the store director and Godfrey  
 14 was the boss."  
 15 Do you see?  
 16 A. I see that.  
 17 Q. She is not asked about the amount of time Godfrey spends  
 18 after giving that answer, is she? She is, sorry. Quite  
 19 right, she comes up with exactly the same numbers as  
 20 some of the other witnesses; yes?  
 21 A. It's a consistent view.  
 22 Q. Yes. Then Ms Rhoder, page 1027, I think she is the last  
 23 witness. Do you see that?  
 24 A. I do.  
 25 Q. Absolutely the same times to the minute. You know, 9.45

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1 to 11, 4.30 to 5.30.  
 2 A. I see that.  
 3 Q. Incredibly consistent?  
 4 A. I would agree.  
 5 Q. Given that some other members of staff don't have the  
 6 same figures at all. I took you to a gentleman who  
 7 assessed it at 9.30 to 12, and one to one and a half  
 8 hours in the afternoon. The fact that all these junior  
 9 members of staff have exactly the same numbers, you  
 10 don't find that convenient?  
 11 A. No, and I also note that they have all signed their  
 12 interview records and were all given the opportunity to  
 13 correct, alter or add to them.  
 14 Q. Yes. Okay. So I think those are all of the employee  
 15 witnesses. I think that's right, isn't it,  
 16 Mr McAlindon, as far as you are aware?  
 17 A. As far as I am aware.  
 18 Q. Mr Vos is then interviewed by you, page 1046; is that  
 19 right?  
 20 A. Correct.  
 21 Q. So, page 1047, just to be clear at 1046 you say you are  
 22 recording it by means of a slow process of typing?  
 23 A. Correct.  
 24 Q. Who is actually doing the typing?  
 25 A. Me.

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1 Q. Who is doing the questions?  
2 A. I was asking the questions and Phil Barnes was  
3 presenting the evidence in between.  
4 Q. Okay, because you see it just says "Interviewer:  
5 Phil Barnes. Recorded by Mel McAlindon". I am just  
6 look at your note.  
7 A. No, you are quite right.  
8 Q. Then it starts with the words:  
9 "I am Mel McAlindon."  
10 A. Yeah.  
11 Q. You see:  
12 "I am facilitating this interview."  
13 A. That's correct. In that particular situation, because  
14 Phil Barnes was far more familiar with the evidence,  
15 I asked the question and he provided the explanations  
16 from the file. So it's not quite right in there,  
17 I agree.  
18 Q. Sorry, you asked the questions from a file?  
19 A. I asked the questions, and he -- I asked the questions  
20 and he presented the narrative from the file from the  
21 interview records and so on and so forth that I was  
22 asking Mr Vos to comment on.  
23 Q. So did you have your questions prepared?  
24 A. Yes, in some -- yes, I did, yes.  
25 Q. Do we see those anywhere?

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1 A. I -- when I go through an interview plan, I compile the  
2 interview record electronically in a Word document, and  
3 I do my interview plan in there, so that when I have  
4 read out a section and the replies start coming in,  
5 I then continue with the contemporaneous record until  
6 that section is finished, and then the section will be  
7 in there. So my interview plan is effectively part of  
8 this.  
9 Q. Are you saying that this document, this very document  
10 that we see here, starts life as one thing, ie your  
11 notes of questions you are going to answer(sic), and  
12 then ends up as something else?  
13 A. No, I am saying that it starts off as an interview  
14 template, and I put in, in a structured order, the  
15 evidence that I wanted to present to Mr Vos, and I then,  
16 as I've read it out and explained it, when he replies  
17 I write his replies in. If there is continuing  
18 questioning and answering, because the explanations are  
19 not consistent with what's been explained or to add  
20 clarity to it, I would write further questions in and  
21 further answers. So it's the start of a document,  
22 rather.  
23 Q. So there is some version of this document, was there,  
24 that you generated before the interview --  
25 A. Before the interview I sat down with the files with

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1 Phil Barnes and I said "Right, what are we going to  
2 present to Mr Vos to give him an opportunity to comment  
3 on?" So I created from a Word template the record of  
4 interview and I put in what I was going to say to  
5 Mr Vos, section by section, as we went through the  
6 subject matter. As we then went into discussion with  
7 Mr Vos, I wrote those in. I did that for expediency,  
8 effectively. But it is exactly what was said because  
9 I read it out.  
10 Q. When did you have this meeting with Mr Barnes?  
11 A. I would have thought on the day or the day before.  
12 I don't know.  
13 Q. What was the file of documents that you are referring to  
14 that you had available to you?  
15 A. We had files with the payroll records in, with the  
16 invoices, and with the statements.  
17 Q. The witness statements?  
18 A. Yes.  
19 Q. The ones we have just seen?  
20 A. The ones we have just gone through.  
21 Q. Okay. Is that all you had?  
22 A. I believe so, yes.  
23 Q. What about the head office file that we heard from  
24 Mr Dyson about on Friday?  
25 A. That's a file that I have no knowledge of or ever seen.

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1 Q. Okay. What about notes of enquiries you have made of  
2 other people, like Mr Rowe or Mr Raines or Mr Dyson or  
3 Mr Ryan, or anybody else?  
4 A. I've never made any enquiries about those people.  
5 Q. What documents has Mr -- apart from the ones you have  
6 described, so the invoices that Mr Walls has drawn off  
7 the system; is that right?  
8 A. Correct.  
9 Q. The pay records that Mr Walls has drawn off the system;  
10 yes?  
11 A. Via somebody else in Guernsey who he's requested and  
12 they have supplied to him.  
13 Q. Yes. And the interview notes from the interviews that  
14 Mr Barnes has had with the interviewees that we have  
15 just read through. Apart from those documents that you  
16 have got, what other documents do you say that you had?  
17 A. I didn't say I had any other documents, I don't have any  
18 recollection of having any other documents.  
19 Q. What about the documents that the loss prevention team  
20 would have snapped up when they went into the store.  
21 A. I don't think there were any documents when we went into  
22 the store, and those that were, were exhibited. You  
23 know, anything that -- "those that were", that's not  
24 right. Any documents that we had that we found that  
25 were relevant are in the files. They are in these

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1 bundles.  
 2 Q. In the bundles?  
 3 A. I have no recollection of any documents that were  
 4 actually collected from within the store environment,  
 5 unless they are in these bundles.  
 6 Q. So where did you think all of the documentation that ran  
 7 this store -- every Specsavers store has to have  
 8 contracts of employment for all its staff, contracts  
 9 with all its suppliers, all its financial information,  
 10 everything else, all the other documents that are  
 11 required to run a Specsavers opticians in Britain.  
 12 Where did you think all that documentation was?  
 13 A. A lot of the day-to-day publications would have been --  
 14 I am speculating again. I don't know because I didn't  
 15 see them in the store. But there would have been  
 16 documents, I would guess, such as, you know, products  
 17 and pricing and things like that, product directories,  
 18 that type of stuff.  
 19 In terms of the personnel files, there was none,  
 20 which was questions that we discussed with Mr Vos, and  
 21 he explained that he kept those off-site along with  
 22 a number of other documents that he thought were  
 23 important.  
 24 Q. So if we look at 1047, line 46, line 45, you asked --  
 25 I say you, I don't know who is asking the questions now.

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1 Is this Mr Barnes or is this you?  
 2 A. No, I am asking the questions.  
 3 Q. You are doing all the questions, okay, and you are  
 4 typing the answers?  
 5 A. Correct.  
 6 Q. So Mr Barnes is literally just sitting there?  
 7 A. Correct.  
 8 Q. Okay. So you are asking:  
 9 "Question: Where are all the other documents from  
 10 the business?"  
 11 And Mr Vos answers:  
 12 "Answer: All the delivery notes, all the  
 13 correspondence, invoices, mystery shopper reports,  
 14 anything of a sensitive nature, I would never leave the  
 15 contracts in the store because there is no security in  
 16 the store."  
 17 So he is making it clear that all those documents  
 18 are kept by him safe and secure at his home office?  
 19 A. Correct.  
 20 Q. Did you take that into account when you reached your  
 21 conclusion that there was little, if any, evidence of  
 22 Mr Vos being able to complete any work outside the  
 23 store?  
 24 A. Yes, because we asked for any documents which we were  
 25 told had gone to his solicitors, so we asked for a copy

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1 of those so that we could consider it in context.  
 2 Q. Are you talking about the solicitors' boxes?  
 3 A. Correct.  
 4 Q. That's what's referred to just above in 1047 at line 37:  
 5 "Question: Contracts of employment. Can you tell  
 6 me where they are?  
 7 "Answer: They are stored at the moment with Helen  
 8 and Barry's solicitors."  
 9 Do you see that?  
 10 A. Correct, yes.  
 11 Q. That's obviously Helle and Barry's solicitors. So when  
 12 did you go and collect those documents that were at the  
 13 solicitors'?  
 14 A. I don't know what the exact date is, but Ben Walls went  
 15 and collected them after this interview, I believe.  
 16 Q. By that time, you were already trying to put together  
 17 a case, weren't you, that Mr Vos --  
 18 A. We were starting --  
 19 Q. -- was being paid in excess of the work he was doing?  
 20 A. Well, we were in the process of investigating it, and  
 21 still had other interviews to complete before we could  
 22 make any sort of conclusions.  
 23 Q. Okay. In relation to the documents which you eventually  
 24 conclude are forgeries, I think, is that your  
 25 conclusion?

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1 A. Correct.  
 2 Q. We find them at -- probably best -- the end of  
 3 bundle E2. Where we start is 527. Do you see that one?  
 4 A. I do.  
 5 Q. A letter of 1 May. This is not one that's on wrong  
 6 paper or anything like that. We are coming to that one  
 7 in a second, that's 529. But 527, do you assert that  
 8 this is a forgery or not?  
 9 A. I wouldn't say -- I found that the letter was --  
 10 I doubted the genuineness of the letter because  
 11 typically when you have situations in stores where  
 12 people are employing relatives, this scale of formality  
 13 I've never seen.  
 14 Q. No.  
 15 A. So for that reason, I suspected its genuineness.  
 16 Q. But were you aware of the circumstances that led to it  
 17 being created back in 2009?  
 18 A. No, I could only express a view on the basis of the  
 19 letter itself, because that's what I was presented and  
 20 it was the first I had read of it.  
 21 Q. Surely you knew by this point that the matter of Mr Vos'  
 22 invoices and then being put on to the --  
 23 A. I was, yes, I was aware of all of that.  
 24 Q. -- employees that that had been dealt with in detail in  
 25 2008?

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1 A. Correct.  
 2 Q. You were aware by this point, weren't you --  
 3 A. Correct.  
 4 Q. -- that therefore, as it were, Mr Vos covering himself  
 5 with a letter which rather formally sets out all the  
 6 reasons why he is to be an employee might be real?  
 7 A. Yes, I've still never seen anybody write a letter of  
 8 this scale of formality when the only issue was to put  
 9 him on the books so that there was transparency. Once  
 10 he was on the books nobody was going to take issue with  
 11 it because there was transparency. To then write  
 12 a letter of such formality I found to be unusual and as  
 13 a consequence, I was sceptical of it.  
 14 Q. Okay, but why the scepticism? On your case, Specsavers'  
 15 case --  
 16 A. Yes.  
 17 Q. -- Mr Rowe has raised with the partners, the JV  
 18 partners, the fact that one of -- that Dr Poulsen's  
 19 husband, a family member, is invoicing the store large  
 20 amounts of money each month. That has then led to SOG  
 21 demanding that he be put onto the books as an employee;  
 22 yes?  
 23 A. I can't really comment on that because I don't know how  
 24 it was put to them at the time that happened, but  
 25 I accept that there was an agreement where it was agreed

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1 that it would be inappropriate to use a consultant,  
 2 because that's not within the joint venture agreement,  
 3 and that if there was a necessity for him to perform  
 4 a role in the store, it should be in the normal way,  
 5 which is a normal employment relationship. That would  
 6 simply require a contract of employment. So --  
 7 Q. I agree with you, we will come to that in a second.  
 8 A. Okay, but my reason for finding this doubtful is had  
 9 I just been presented with a contract of employment,  
 10 that would be something that is consistent with what you  
 11 have seen in these sorts of situations but this  
 12 situation has --  
 13 Q. So the document at 530, for example --  
 14 MR JUSTICE HILDYARD: Sorry, I didn't hear his response.  
 15 MR STUART: I am sorry, my Lord.  
 16 A. If I had simply been presented with a contract of  
 17 employment, that would be consistent with a joint  
 18 venture partner employing a relative where it had been  
 19 discussed, "This isn't the right way to do things, put  
 20 it right, employ them", I would have only got contracts  
 21 of employment. To get a long letter from a husband to  
 22 a wife, albeit the fact that -- and setting out the  
 23 terms of how you want to be, you are going to be  
 24 employed, not how they are going to employ you, just  
 25 struck me as a contrived letter. That's as much as

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1 I can say. When I was presented with it, I just looked  
 2 at it and thought: this doesn't feel right, it doesn't  
 3 seem normal. It was unusual.  
 4 Q. Okay, but you were aware that the background was that  
 5 Specsavers was requiring them to put him on the payroll;  
 6 you were aware of that much?  
 7 A. Yes.  
 8 Q. And you were aware that he did go on the payroll from  
 9 May 2009?  
 10 A. Yes, because I had seen the payroll information.  
 11 Q. And therefore -- 1 June, I am told, was the first  
 12 payroll. Quite right, 6 June. You were aware that on  
 13 Specsavers' own payroll records there would be a record  
 14 of what his average, his contractual working week was to  
 15 be in terms of hours?  
 16 A. Correct.  
 17 Q. 24 hours a week?  
 18 A. Correct.  
 19 Q. And his rate of salary?  
 20 A. Correct.  
 21 Q. £33,600?  
 22 A. Correct.  
 23 Q. And his job description: business practice manager. Job  
 24 title.  
 25 A. Yeah. The unusualness of this is also the fact that

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1 a business practice manager, the role doesn't exist. So  
 2 there are no job descriptions, and all job descriptions  
 3 are templated in the business. So there are a number of  
 4 things not right with that, in as far as contract of  
 5 employment in itself is fine, it should be a role that  
 6 exists within the business, that's a known and  
 7 understood role with a job description, and in any case  
 8 if it goes outside the joint venture agreement in terms  
 9 of the salary versus the hours, is it consistent with  
 10 the policy with the group and has it -- if it goes over  
 11 that level, has it been agreed at some level somewhere  
 12 within the business, and if that has been agreed, then  
 13 that would be reasonable. The fact that it wasn't  
 14 agreed, the fact that it was a made up job description,  
 15 and I say that in that it was something that was created  
 16 for this one environment, not something that existed  
 17 anywhere else, plus the letter, it was unusual.  
 18 Q. I need to ask you about that. When you say "created for  
 19 this one environment", you mean this one store?  
 20 A. Yes, this is unique to the store.  
 21 Q. To this store?  
 22 A. To Bognor Regis, yes.  
 23 Q. But this concept of making it up, making up this job  
 24 description --  
 25 A. "Making up" is probably the wrong way to describe it.

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1 Creating a job description to fit this role that doesn't  
 2 exist anywhere in the business, it's a self-created  
 3 role.  
 4 Q. Yes, but you are not suggesting that page 541,  
 5 a document which was run by Specsavers Optical Group --  
 6 A. I haven't seen 541 --  
 7 Q. Yes, I took you to it, 541. You are not suggesting that  
 8 that document, which was run by Specsavers Optical Group  
 9 at around this time, in mid- --  
 10 A. It was not run by Specsavers Optical Group. This is  
 11 a document that has been created by the three people  
 12 involved, Barry Weller, Ms Poulsen and Godfrey Vos --  
 13 Q. And Jason North of the Specsavers Optical Group?  
 14 A. I don't see Jason North on there anywhere.  
 15 Q. We have seen the evidence of him wishing to have the  
 16 first version of this amended, and this is the amended  
 17 version. Do you remember? This all arose from the need  
 18 to have --  
 19 A. Yeah.  
 20 Q. -- a notice, because Mr North was investigating  
 21 a grievance --  
 22 A. No, I accept that.  
 23 Q. So this is a genuine document that was created at the  
 24 time genuinely for purposes not to do with justifying  
 25 Mr Vos' salary?

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1 A. I accept that.  
 2 Q. Right. In the heading "Geoffrey Vos is the business  
 3 practice manager", that is therefore his genuine job  
 4 title, isn't it?  
 5 A. If somebody else in the business has agreed it, yes.  
 6 Q. And these are his responsibilities on the face of it?  
 7 A. Correct.  
 8 Q. And those responsibilities we also see in his job  
 9 description, don't we, at page 539?  
 10 A. Correct.  
 11 Q. So what you are suggesting is concocted evidence -- and  
 12 we will come back to which of these documents you are  
 13 saying is concocted evidence, but what you are saying is  
 14 concocted evidence is concocted evidence to support the  
 15 contention that Mr Vos is the business practice manager  
 16 with all of these duties, which is something we can see  
 17 anyway?  
 18 A. Yeah, I believe when I was saying that I found the  
 19 letter implausible --  
 20 Q. Yes?  
 21 A. -- I felt it was contrived for the interview, I have  
 22 explained, that was in relation to this letter. This  
 23 was one of the documents that --  
 24 Q. Right, not the actual employment contract at 530 through  
 25 to 538?

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1 A. No, that is a standard format, a standard format  
 2 contract.  
 3 Q. Yes.  
 4 A. The issue with that standard format contract is that  
 5 it's -- the pay and the hours are not consistent with  
 6 the pay scales that are set by the -- within the top  
 7 team and requires prior approval by the B shareholder.  
 8 Q. But they are absolutely consistent with the pay and the  
 9 hours that were reported to Specsavers Optical Group  
 10 accounts department every month from 6 June onwards?  
 11 A. I wouldn't -- well, payroll receive payroll and they  
 12 process it.  
 13 Q. Yes.  
 14 A. That's different from getting prior approval from  
 15 somebody within the group, whether that be financial  
 16 planning or formally through, I don't know, Mr Dyson or  
 17 the legal department, or somewhere, I don't know where  
 18 it would go, but someone would have to formally approve  
 19 anything outside the joint venture agreement, and that  
 20 is outside the joint venture agreement and would  
 21 therefore require B shareholder approval for which  
 22 I didn't see any.  
 23 Q. It's not the lack of shareholder approval for employing  
 24 Mr Vos at 24 hours a week on 33,600, is it, that's the  
 25 complaint here? If could hardly be because from --

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1 A. Sorry, what do you mean by "the complaint"?  
 2 Q. The allegation.  
 3 A. Erm --  
 4 Q. Financial irregularity, dishonesty and fraud.  
 5 A. The allegation is that this is outside the agreement  
 6 and, in addition to not meeting the contractual hours,  
 7 there were overtime payments that again we couldn't find  
 8 consistent. So it's all interlinked.  
 9 Q. This employment contract doesn't assist Mr Vos in any  
 10 way, shape or form with his claim for overtime payments,  
 11 does it? This says he has 24 hours per week and £33,600  
 12 salary, for that --  
 13 A. I don't dispute that. What I am saying is that when  
 14 I was presented with this, I questioned its validity in  
 15 terms of --  
 16 Q. Did you question this bit, though?  
 17 A. Sorry?  
 18 Q. Did you question this employee contract?  
 19 A. I felt that all -- when you looked at the overall  
 20 package of what had been paid out to Mr Vos from  
 21 an employee -- from his employee position onwards,  
 22 I found to be -- they were large to an unusual extent.  
 23 It was the biggest payments that we had seen going to  
 24 one individual who had a 24 hour contract. So it wasn't  
 25 just, when I was presented with these documents, the

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1 letter from a husband to a wife detailing the grounds  
 2 that they would be prepared to be employed for, the  
 3 contract of employment, it would have -- you would have  
 4 to have something to justify it. I just discounted its  
 5 validity when I got the entire package of documents.  
 6 Q. If that wife had had raised with her at a formal meeting  
 7 from SOG concerns about income splitting, paying members  
 8 of your family for jobs, and the importance of having  
 9 documented evidence to show that paying members of your  
 10 family for jobs was real, back at the time in 2008 --  
 11 A. I am telling you how I felt when I was presented these  
 12 in the interview and read them for the first time.  
 13 Q. Okay. So as soon as you saw them and read them in the  
 14 interview you considered they looked, what, wrong,  
 15 artificial?  
 16 A. Artificial would be a good way of describing it.  
 17 Q. Did you put that to Mr Vos?  
 18 A. I don't know whether I did at the time. I accepted them  
 19 at face value.  
 20 Q. Okay.  
 21 A. I believe.  
 22 Q. So the letter at 527 to 528, because of its content, you  
 23 think it looks artificial rather than because of its  
 24 form?  
 25 A. Sorry, which pages?

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1 Q. 527 to 528 is the one "Dear Helle and Barry"?  
 2 A. Yes.  
 3 Q. It sets out all the different things?  
 4 A. Yes.  
 5 Q. 529 is just a standard form template kind of letter  
 6 enclosing --  
 7 A. Correct.  
 8 Q. -- an employment contract, and that of course was on the  
 9 wrong headed paper, something you only discovered later;  
 10 is that right?  
 11 A. Correct.  
 12 Q. When did you discover that?  
 13 A. It was brought to my attention by somebody from the  
 14 legal department who noted it, they were more familiar  
 15 with the legal issues surrounding template letters, and  
 16 they brought it to my attention and said "this is" --  
 17 Q. When?  
 18 A. As we were compiling the ... to be honest, I don't  
 19 actually recollect.  
 20 Q. Do we have an email from this person?  
 21 A. I don't -- I don't, I don't know whether it was --  
 22 I don't know. I don't know whether it was before,  
 23 because that was my last involvement. The interview  
 24 with Mr Vos was my last involvement until I had returned  
 25 from Australia and, or they continued with the

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1 investigations. This only came to my attention,  
 2 I believe, once we were compiling the investigation  
 3 report.  
 4 Q. When was that? When did you --  
 5 A. I don't believe this was put to Mr Weller or Ms Poulsen.  
 6 Q. No. It wasn't.  
 7 A. No.  
 8 Q. But that's my question.  
 9 A. Oh, this came to light after those two interviews, or we  
 10 would have put it to them.  
 11 Q. Where do we see it coming to light? Who noticed it,  
 12 according to you?  
 13 A. I don't know. Somebody from the legal department.  
 14 Q. Did they speak to you or did they speak to somebody  
 15 else?  
 16 A. I can't recollect.  
 17 Q. Did they send you the information, the point in writing  
 18 by way of an email saying "This letter is wrong"?  
 19 A. I have no recollection.  
 20 Q. Do we have any copy of any such email?  
 21 A. I don't know.  
 22 Q. Okay. Let's just whilst we are in E2, the letter at  
 23 529, apart from the fact that it's on the wrong headed  
 24 paper, apart from that fact, are you saying there is  
 25 anything else suspicious about it? It's just a standard

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1 form letter saying "please find enclosed the contract."  
 2 A. No, but in hindsight it demonstrated that it was created  
 3 or it felt like it was created for the purposes of the  
 4 investigation and justifying the fact that there was  
 5 legitimacy to the entire employment and payment process.  
 6 So ...  
 7 Q. So if a member of your department created a document to  
 8 try to give the impression of some sort of legitimacy  
 9 where an issue of something not being legitimate was  
 10 raised, would that be fraud and dishonesty by a member  
 11 of your department?  
 12 A. I don't know what you are referring to.  
 13 Q. It's just a hypothetical.  
 14 A. It would depend on the document and the circumstances in  
 15 which it was presented.  
 16 Q. Okay, let's take this as an example, the one you are  
 17 looking at here. Given that you accept that he was  
 18 being employed from 6 June 2009 --  
 19 A. Correct.  
 20 Q. -- so he is not trying to create an employment where  
 21 there wasn't one --  
 22 A. Yes.  
 23 Q. -- given that his salary was £33,600 from that date --  
 24 A. Yeah.  
 25 Q. -- and recorded as such in all of your records, so he

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1 is not trying to create evidence as to his salary, given  
 2 that his hours of work are 24 hours a week, contracted  
 3 for --  
 4 A. Correct.  
 5 Q. -- and that's on your records as well, from June 2009  
 6 records, so he is not trying to create evidence to  
 7 substantiate that, what is it that is so dishonest here,  
 8 in your mind, about this document?  
 9 A. Because the part that it doesn't take into account is  
 10 the fact that the joint venture agreement is  
 11 unequivocally clear that you cannot employ somebody  
 12 above certain levels on certain salaries, and you have  
 13 to pay people in line with normal remuneration.  
 14 Q. But that applies to everything I have just said to you.  
 15 He was employed at SOG's demand at 33,600 --  
 16 A. That's a salary that nobody had agreed to.  
 17 Q. That salary level was sent into SOG each month "please  
 18 pay him at this salary rate", it's recorded in your  
 19 computer records that that's his salary.  
 20 A. The agreement in terms of the joint venture agreement  
 21 would go through departments, whether it be -- I don't  
 22 know whether it would be legal or financial planning  
 23 normally do approvals of things for store companies,  
 24 I would have thought it would be something like that,  
 25 that you would have to apply in writing to those

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1 departments, who would act on behalf of the B  
 2 shareholder and agree or disagree with employing  
 3 somebody on that basis and principle from the start.  
 4 Q. So how does the creation of this document help him?  
 5 A. The fact that that hadn't taken place and that these  
 6 documents then arrive that show that -- that reflect  
 7 some degree of legitimate process, is -- sorry, going  
 8 back to your point about the payroll is going in every  
 9 month; the payroll wouldn't go to those people who would  
 10 put the flag on, "Yes, we agree to this" or "No, we  
 11 agree(sic) with it", the payroll just goes  
 12 electronically through a system to payroll clerks who  
 13 process it at face value on the -- knowing that the  
 14 partners are required to input that data and it's  
 15 an accurate and truthful payroll. So they would just  
 16 literally process it. It wouldn't be their job to  
 17 challenge it, as such.  
 18 Q. How does the creation of these documents --  
 19 A. Because there was no agreement --  
 20 Q. -- assist?  
 21 A. Because there was no agreement with anybody as  
 22 a B shareholder that he could be employed on these  
 23 terms.  
 24 Q. Correct. So if this letter said "Dear Mr Dyson, for and  
 25 on behalf of SOG (B shareholder in Bognor Regis

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1 Limited), I hereby confirm in 2009 that you have agreed  
 2 that I can pay my husband £33,600", if there was such  
 3 a letter on a file purporting to get over the issue  
 4 which you now say was the issue, one could see how you  
 5 might be suspicious about it. But how does a letter  
 6 from Mr Vos to his wife and Mr Weller --  
 7 A. Simply because nobody was aware of the terms and  
 8 conditions that had been agreed and they are outside the  
 9 parameters that they can agree these payments.  
 10 Q. So when do you say that SOG became aware that Mr Vos was  
 11 working 24 hours a week for a £33,600 per annum salary,  
 12 which is way beyond, you say, the --  
 13 A. Yeah, I became aware of it when I investigated the --  
 14 well, when we investigated the payroll payments.  
 15 Q. When did SOG become -- you don't matter, do you?  
 16 A. I subsequently reported that to SOG via the  
 17 investigative report that was done at the end.  
 18 Q. I see. So they only learned of it in when you reported  
 19 it to them in 2011?  
 20 A. People in the payroll department who process payroll  
 21 would have processed the payroll. Would they have  
 22 necessarily made the connection that, was it done with  
 23 prior approval or not? No, they wouldn't have done.  
 24 Q. What about Mr Raines, the director?  
 25 A. I don't know what Mr Raines would know or wouldn't know,

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1 I can't speak for him.  
 2 Q. We do know what he thought, don't we, because we have  
 3 an email that Mr Rowe has spoken to Mr Raines, do you  
 4 remember, in 2010, well before you became involved?  
 5 A. Can you point me to the document?  
 6 Q. Do you remember?  
 7 A. You would need to point me to the document.  
 8 Q. Okay. The document I took you to earlier is in E3/734:  
 9 "I have caught up with Mark Raines ref this issue."  
 10 This is Mr Rowe --  
 11 A. Sorry, 734?  
 12 Q. 734. Mr Rowe is reporting to Mr de Carteret and Mr Rajan  
 13 and Susannah Hart, who is in the communications team at  
 14 head office:  
 15 "I've caught up with Mark Raines ref this issue".  
 16 That's about Bognor Regis salary, do you see it?  
 17 A. Yes.  
 18 Q. Mr Vos' salary?  
 19 A. Yes.  
 20 Q. "We will not be taking action as the store is not  
 21 showing signs of financial difficulty and we believe  
 22 that both partners are aware. So in summary no action  
 23 is being taken."  
 24 A. Yeah.  
 25 Q. So they certainly knew about it by then, SOG knew about

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1 it by then?  
 2 A. I think Mike Rowe clearly knows about it.  
 3 Q. And Mr Raines, director of retail operations?  
 4 A. Well, the email has gone to Jez de Carteret and is  
 5 copied to Riyaz Rajan and Susannah Hart.  
 6 Q. Yes. Look at the content of it.  
 7 A. Sorry, yes, I accept that.  
 8 Q. So Mr Raines, Mr Rowe, Mr de Carteret -- Mr de Carteret  
 9 is in, as I understand you, accounts?  
 10 A. Store accounts.  
 11 Q. So the accounts department is aware of it?  
 12 A. Yeah.  
 13 Q. Mrs Hart, who is in general communications, is aware of  
 14 it?  
 15 A. Yeah. I suppose the question is: what are they aware  
 16 of? And it doesn't make clear in this email, were they  
 17 aware that he was employed and being paid a normal  
 18 salary within normal terms and conditions and rules of  
 19 engagement?  
 20 Q. Okay, I should have taken you to, you are right,  
 21 page 726. This starts from a Mr de Carteret email to  
 22 Mr Rajan:  
 23 "I attach a payroll print-out and salary details."  
 24 Okay? Ignore the black manuscript writing which is  
 25 put on by Mr Dyson in January 2011. What they are aware

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1 of is, if you go to page 727, they are aware that Mr Vos  
 2 is on the payroll earning a salary of £35,280. Do you  
 3 see it? And his hours are 24. Do you see it?  
 4 A. Sorry, I am just reading 726.  
 5 Q. 727, this is a list of all the people on the payroll.  
 6 A. Yeah, correct.  
 7 Q. Go down to Mr William Vos?  
 8 A. Correct.  
 9 Q. His role is PMG. That's what Specsavers call him.  
 10 A. I don't know. Yes, I take your point.  
 11 Q. Practice manager, perhaps?  
 12 A. Could well be.  
 13 Q. Yes. He started on 6 June 2009 on the payroll; you  
 14 would agree with that?  
 15 A. Correct.  
 16 Q. His salary is £35,280?  
 17 A. Correct.  
 18 Q. You agree with that?  
 19 A. Yeah.  
 20 Q. And his hours are 24?  
 21 A. Correct.  
 22 Q. We seem to have all of the evidence well and truly  
 23 available to SOG as to what you now say is the issue  
 24 here, ie employing somebody outside the bracket, the  
 25 standard bracket at that sort of level of salary. It is

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1 not right, is it, Mr --  
 2 A. Well, Jez de Carteret is raising this as an issue in his  
 3 email on page 726, as somebody from a stores accounting  
 4 perspective who is uncomfortable with the numbers that  
 5 he is seeing on the paper. What it doesn't say is that  
 6 he has any understanding or any knowledge or any  
 7 involvement from a B shareholding point of view and  
 8 signing off the legitimacy of those payments, and he's  
 9 querying them because the numbers itself look wrong  
 10 because they are too large. It still doesn't negate the  
 11 fact that there is no paper trail because it never took  
 12 place, that nobody ever agreed for him to be put on the  
 13 salary at those price points. Not the issue in  
 14 principle of him being employed, but the remuneration  
 15 for the post that was being -- he was being employed  
 16 for.  
 17 MR STUART: My Lord, I see the time. Would that be  
 18 a convenient moment?  
 19 MR JUSTICE HILDYARD: Yes. Well, 9.30 tomorrow.  
 20 Mr McAlindon, you know the rules, no discussion about  
 21 the case.  
 22 Discussion re timetable  
 23 MR JUSTICE HILDYARD: How are we progressing? I have  
 24 a meeting with the powers that be to try and work out  
 25 when time can be made available. What's your timing?

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1 MR STUART: My Lord, I will try to be no more than --  
 2 MR JUSTICE HILDYARD: No, I am not asking you to try and  
 3 be -- I am just wondering where we are compared to what  
 4 you estimated.  
 5 MR STUART: I think that we are, I have to concede we are  
 6 closer to Mr Potts' -- Mr Potts ends it half a day later  
 7 than on my estimate.  
 8 MR JUSTICE HILDYARD: Yes.  
 9 MR STUART: I think my estimate was just desperately trying  
 10 to be hopeful in the last vain efforts to try and save  
 11 my brief --  
 12 MR JUSTICE HILDYARD: I am rather keen that you shouldn't  
 13 desperately try to be hopeful, but that you should  
 14 desperately try to assist me.  
 15 MR STUART: Exactly, my Lord. So I am accepting  
 16 Mr Potts' --  
 17 MR JUSTICE HILDYARD: And be realistic even if it's  
 18 a depressing piece of news, because being desperately  
 19 hopeful doesn't help me with trying to work out where  
 20 I am to be at any given time.  
 21 MR STUART: I am admitting that I mustn't be desperately  
 22 hopeful and therefore I am going to agree with Mr Potts'  
 23 rather longer estimate.  
 24 MR JUSTICE HILDYARD: Right.  
 25 MR STUART: So that if, certainly, your Lordship was saying

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1 that the concept of giving us time outside term on  
 2 9 January was really with a view to hoping that the  
 3 matter would be finished, submissions on 9 January,  
 4 I absolutely agree with Mr Potts that that is not going  
 5 to be realistically achievable, and therefore I presume  
 6 that the more likely sequence is that we start whenever  
 7 your Lordship can start at the beginning of next term,  
 8 ie either the afternoon of the 13th or the morning of  
 9 the 14th, if those are available to us.

10 MR JUSTICE HILDYARD: Well, according to Mr Potts'  
 11 suggestion, we would have -- I am not blaming anyone,  
 12 Mr McAlindon is an important witness, but according to  
 13 both, you were to finish Mr McAlindon today.

14 MR STUART: Yes.

15 MR JUSTICE HILDYARD: I am just trying to work out what the  
 16 effect is. I am not interested in your optimism, I am  
 17 interested in your realism.

18 MR STUART: Yes.

19 MR JUSTICE HILDYARD: Because I have to try and  
 20 realistically work out what is necessary in order to  
 21 find some way of concluding this matter.

22 If you are eternally optimistic, then the medicine  
 23 you will have to take will be that you will simply have  
 24 to be available in a part heard matter whatever may be  
 25 your other commitments.

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1 MR STUART: My Lord, I think realistically it is realistic  
 2 to say that we should be able to get to the end of  
 3 Mrs Parham's evidence by the end of Friday of this week.  
 4 I think that is a reasonably achievable target, if we  
 5 are starting early tomorrow and have four days, even  
 6 with your Lordship's other matter, we should be able to  
 7 get through, given that Mr Dyson is not giving his  
 8 evidence before Christmas, we should be able to get to  
 9 a stage where you have heard Mr and Mrs Parham.

10 I acknowledge that the other smaller claimants'  
 11 witnesses and all of the defendants' witnesses in that  
 12 matter are not going to be heard before Friday.

13 MR JUSTICE HILDYARD: I see, so it's in that sense that you  
 14 accept Mr Potts' view?

15 MR STUART: Yes, and I would hope that he would agree that  
 16 that's realistically achievable.

17 MR JUSTICE HILDYARD: Does that continue to be your view,  
 18 bearing in mind that my sense of what Mr Stuart is  
 19 saying is that Mr McAlindon may not be finished much  
 20 before the short adjournment tomorrow? Is that right?

21 MR STUART: My Lord, I am hoping, if we are starting at 9.30  
 22 but your Lordship is finishing at --

23 MR JUSTICE HILDYARD: Yes, the short adjournment tomorrow is  
 24 at quarter to 12. The question is whether we will have  
 25 finished Mr McAlindon in your estimate now by then.

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1 MR STUART: Oh yes, I will make sure we will.

2 MR JUSTICE HILDYARD: Right.

3 MR POTTS: My Lord, obviously I can estimate my time.

4 MR JUSTICE HILDYARD: Yes.

5 MR POTTS: The only thing I would say, my Lord, in relation  
 6 to my learned friend's time is obviously these times  
 7 were based on his cross-examination of my witnesses,  
 8 it's obviously based on his estimates. I am slightly  
 9 concerned that Mr McAlindon is shifting into tomorrow,  
 10 so we are not quite on track. My friend has both  
 11 Mr Raines and Mr Rowe. I cannot really express a view  
 12 as to how long he will be in cross-examination of them,  
 13 but I am starting to be a little bit sceptical that  
 14 there may be some slippage on that.

15 My own sense, my Lord, is assuming -- and again,  
 16 I don't know long he is going to be with Ms Mancini and  
 17 Mr McGowan, my sense is that certainly we will finish  
 18 the evidence in Bognor, we will start -- we will be able  
 19 to do the opening speeches for Uckfield, and I certainly  
 20 feel confident, assuming there is not too much slippage  
 21 on the other witnesses, that we can deal with Mr Parham.  
 22 I am at the moment not quite so sure about Mrs Parham,  
 23 we will see how we go, I would hope we can. It depends,  
 24 if I am allowed to start -- if we start promptly on  
 25 Thursday the 19th with Mr Parham I would hope I could

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1 finish both in two days, but it depends -- I have to say  
 2 my concern is with re-examination, I have to say, I am  
 3 afraid.

4 MR JUSTICE HILDYARD: Yes.

5 MR POTTS: My Lord, the only point I would be slightly  
 6 concerned about with Mrs Parham, I would be slightly  
 7 concerned -- if I am not confident that I will finish  
 8 her, I am slightly nervous about putting her into purdah  
 9 over Christmas with her husband and so on. I have no  
 10 reason to doubt that we can't do Mr Parham and I hope we  
 11 can do both, depending on re-examination.

12 MR JUSTICE HILDYARD: Right. The preparation of written  
 13 closing submissions, looking further afield, you think  
 14 that two days, bearing in mind that I shall want help in  
 15 distinguishing between the two cases and in each case  
 16 providing me with all necessary assistance, and I would  
 17 rather you had a day longer to provide more assistance  
 18 than scabble around and in effect be scabbling around  
 19 documents without a proper guide. I am sure you  
 20 wouldn't do that to me, but, you know, that's my  
 21 preference. Is two days enough?

22 MR POTTS: Is this for written closing, my Lord?

23 MR JUSTICE HILDYARD: Yes.

24 MR POTTS: I think we can certainly make advances -- for  
 25 example, Bognor which is the more document heavy case,

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1 we can crack on with that over the vacation.  
2 MR JUSTICE HILDYARD: Yes.  
3 MR POTTS: In terms of, it depends, my Lord, on what timing  
4 we have in January, I think, and what days are  
5 available.  
6 MR JUSTICE HILDYARD: Yes.  
7 MR POTTS: I think two days, I think it's doable, my Lord,  
8 for Uckfield.  
9 MR JUSTICE HILDYARD: You think that too, do you, Mr Stuart,  
10 given that you will have a lot of time to deal with  
11 Bognor?  
12 MR STUART: I will be able to do Bognor first. My Lord,  
13 I would have thought with the team working on it, it  
14 should be possible to produce something.  
15 MR JUSTICE HILDYARD: Right. Then I'll need, what, a day to  
16 read this?  
17 MR POTTS: I think so, my Lord, yes. I think it depends on  
18 quite where days fall and weekends and so on.  
19 MR JUSTICE HILDYARD: Of course.  
20 MR POTTS: The two days, it would be nice to have a little  
21 bit more time out of court if we can.  
22 MR JUSTICE HILDYARD: Two to two and a half, and then I'll  
23 need a day. Bearing in mind our two cases, is two and  
24 a half hours each what you say is fair and sufficient to  
25 give closings in both cases, having regard to the fact

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1 that you will have furnished me with ammunition to ask  
2 you lots of questions by then?  
3 MR STUART: My Lord, we will, but on the other hand, we will  
4 have been able to get into your written closing  
5 submissions perhaps much of the detail which we might  
6 otherwise wish to take you through in detail.  
7 I would have thought a day between us is  
8 a proportionate amount of time, but ...  
9 MR JUSTICE HILDYARD: That has to include right of reply in  
10 each case, though on the -- I will be fairly tight.  
11 What I'm doing is I am pointing out to you what I regard  
12 as unlikelinesses in the timetable you have done. What  
13 I will suggest to you is that you do, by 9 o'clock  
14 tomorrow, if not earlier -- it would be much better if  
15 you could do it this evening to be honest, provide me  
16 with your best bet, and you have given me some time,  
17 I don't want you to waste a lot of time on indicative  
18 timetables which are then departed from, but at the  
19 moment there are to my mind obvious problem areas in the  
20 chronology as you have put it forward.  
21 MR POTTS: My Lord, just on the closing, in terms of oral  
22 closing, I think I had envisaged not that we would go  
23 back and forth, that we would do claimants' oral  
24 submissions on both cases in closing, then my closing  
25 submissions on both cases, then a short right of reply.

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1 To that extent, it's not quite so back and forth.  
2 MR JUSTICE HILDYARD: That is probably right, and certainly  
3 more time efficient.  
4 MR POTTS: Yes.  
5 MR JUSTICE HILDYARD: But I am not prepared to go nap on  
6 that, because I do not know what differences there may  
7 be which may become occluded in my mind which could  
8 prejudice the fair disposition of each, and so I might  
9 have to separate you out, and I bear in mind that as  
10 well.  
11 MR STUART: My Lord, could I just ask: just so that we can,  
12 as it were, rework this into something which is becoming  
13 more fixed --  
14 MR JUSTICE HILDYARD: I will give you Thursday the 9th, and  
15 I will try and give you, I am going to see what it is  
16 that I should be missing, the Monday in its entirety.  
17 MR STUART: Thank you, my Lord, yes.  
18 MR JUSTICE HILDYARD: To try and speed you along your way.  
19 MR POTTS: That's more in line with my timetable.  
20 MR JUSTICE HILDYARD: Which is more in line. That causes  
21 a problem and I can't promise the Monday, but that's  
22 what I am thinking towards.  
23 MR STUART: Thank you, my Lord.  
24 MR POTTS: My Lord, that is helpful, because it sort of  
25 suggests that if we are on track, we might finish the

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1 evidence by Tuesday lunchtime, so that would give us  
2 Wednesday, Thursday, two and a half -- at least two and  
3 a half days. Obviously subject to your Lordship's  
4 reading.  
5 MR JUSTICE HILDYARD: That's what I am worried about.  
6 I will want a day's reading, I think.  
7 MR POTTS: Yes. The problem is I suppose the only thing,  
8 I am thinking aloud, is just in terms of the following  
9 Monday, Monday the 20th, obviously puts me in problems  
10 with my other matter. But it does have some advantages.  
11 Perhaps I can make some enquiries in that regard.  
12 MR JUSTICE HILDYARD: I think like I am having to do --  
13 MR POTTS: There are some difficult conversations to have.  
14 MR JUSTICE HILDYARD: -- you may have to face an imperfect  
15 world.  
16 MR POTTS: My Lord, I understand that.  
17 MR STUART: My Lord, as I say, I have already returned my  
18 trial.  
19 MR JUSTICE HILDYARD: Yes.  
20 MR POTTS: Given the adjournments and so on, I am hoping not  
21 to return the brief at this stage, my Lord.  
22 MR JUSTICE HILDYARD: No, I quite understand your wish to  
23 try and make all possible arrangements, and it's because  
24 of that wish that we are dipping into the vacation on  
25 your behalfs.

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1 MR POTTS: I appreciate that, my Lord.  
 2 MR JUSTICE HILDYARD: So see what you can do, send me the  
 3 best indicative effort, be ruthlessly realistic, even  
 4 though it may be slightly grim, and we will see what we  
 5 can do.  
 6 MR POTTS: My Lord, yes.  
 7 MR JUSTICE HILDYARD: 9.30 then.  
 8 (4.45 pm)  
 9 (The court adjourned until 9.30 am  
 10 on Tuesday, 17 December 2013)

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