

# 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 5

December 6, 2013

Opus 2 International - Official Court Reporters

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1 Friday, 6 December 2013  
2 (10.00 am)  
3 (Proceedings delayed)  
4 (10.08 am)  
5 Housekeeping  
6 MR JUSTICE HILDYARD: Yes.  
7 MR STUART: My Lord, good morning. I don't know whether  
8 your Lordship saw a little flurry of suggested  
9 timetables for this trial.  
10 MR JUSTICE HILDYARD: Yes, I did.  
11 MR STUART: Obviously we are very much in your Lordship's  
12 hands as to what time is potentially available,  
13 et cetera. Mr Potts and I have been discussing it this  
14 morning, and we both make the point that ...  
15 (Pause)  
16 MR JUSTICE HILDYARD: I am sorry, Mr Stuart.  
17 MR STUART: Not at all, my Lord. So Mr Potts and I were  
18 just discussing it before your Lordship came in, and we  
19 both recognise that there are still two weeks after  
20 today, there is next week and the week after that we are  
21 dealing with, so we are trying to look quite a long way  
22 ahead here. So this is a preliminary view as to  
23 a timetable. Things might go faster or slower, and it  
24 may be that come the end of next week, we might have  
25 caught up an awful lot of time, we just don't know.

1

1 You have seen the -- I hope -- two suggested  
2 possibilities.  
3 MR JUSTICE HILDYARD: Yes, thank you.  
4 MR STUART: Much of which seems to depend on -- Mr Potts has  
5 suggested that perhaps you might sit on 23 December.  
6 MR JUSTICE HILDYARD: Yes.  
7 MR STUART: We just don't know whether or not that is  
8 a realistic possibility. Then there is really the issue  
9 as to whether the written closing submissions are to be  
10 done over that weekend, as it were, or immediately  
11 after, or could be given some leeway, some time over the  
12 Christmas vacation and perhaps sit either before term  
13 starts or even on the first day of term, et cetera.  
14 Mr Potts obviously having another engagement --  
15 MR JUSTICE HILDYARD: He has a long trial at the beginning  
16 of next term.  
17 MR STUART: He does, which I understand is floating in  
18 a window starting the first day of next term. So  
19 whether it might be possible to ask the Listing office  
20 to list that for another day --  
21 MR JUSTICE HILDYARD: I am sure they would accommodate to  
22 some extent.  
23 MR STUART: My Lord, of course. I should tell you, my Lord,  
24 I too have a trial starting the second day of next term,  
25 so I am not in any way desperate that the matter go on,

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1 certainly not until the Monday there. If there was any  
2 way of sitting in the week beforehand, that would seem  
3 to me to be the ideal, that we would have some proper  
4 reasonable time to prepare the submissions and then have  
5 a day in the first week of December -- well, sorry,  
6 second week of January, as it is.  
7 My Lord, also we haven't factored into this  
8 timetable obviously any other matters that your Lordship  
9 has to deal with between now and the end of term, we  
10 didn't know about those, but given what happened  
11 yesterday and the day before, et cetera, we do  
12 understand that's a possibility as well.  
13 MR JUSTICE HILDYARD: Yes, you are quite right in  
14 identifying that, and that was the reason for the flurry  
15 between myself and my clerk. I have three matters,  
16 unfortunately it's not ideal, but it is almost  
17 inevitable at this stage of the legal year, I am afraid.  
18 MR STUART: Yes, my Lord.  
19 MR JUSTICE HILDYARD: On Tuesday, I think, I have a matter  
20 which I am hearing at 9.30, which I would hope, but not  
21 guarantee, would be concluded within the hour, but you  
22 would have to have a not before 10.30 marking, and  
23 realistically one must take account of the possibility  
24 of a slightly later start.  
25 On the Thursday, I have a matter beginning at 9.15,

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1 where there is an hour and a half estimate, which I am  
2 by no means myself confident about, and I think there is  
3 every possibility that that could go on a little longer.  
4 Again, I think I would give you a not before 10.30  
5 start. I think there is a real possibility it might not  
6 be before 11.  
7 MR STUART: Understood, my Lord.  
8 MR JUSTICE HILDYARD: Thirdly, and dependent on what we  
9 agree today, because there may be a window at the end of  
10 term, depending on what we decide, I have another matter  
11 which will have a two and a half hour listing, and which  
12 needs to be squeezed in somehow.  
13 The long and the short of it is, and with apologies  
14 to you all, that the pressure of business is such that  
15 you are going to lose some time. Quite how much time is  
16 hard to tell.  
17 MR STUART: Yes, my Lord.  
18 MR POTTS: My Lord, that's very helpful in terms of  
19 an indication. My Lord, in terms of our view of it,  
20 I looked at the timetable, I think, my Lord, we would  
21 suggest that we shall see how we go, subject to  
22 obviously timetabling we don't necessarily have to make  
23 a decision now, we see how we go.  
24 My feeling is that we will actually pick up some  
25 time, because you are seeing the same documents and so

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1 on again, but there is more familiarity. The second  
 2 trial, I think the issues are more -- firstly, there is  
 3 a lot less paper, and indeed I think the issues are more  
 4 concise. So my own sense is that we will pick up some  
 5 time.  
 6 My preference would be, I would say, my Lord, if we  
 7 can complete the trial this term, that it would be  
 8 advantageous firstly for your Lordship to have the  
 9 matter completed and fresh in your Lordship's mind with  
 10 closing submissions, and secondly, obviously not having  
 11 to come back next term.  
 12 My Lord, I should clarify a point, I looked at my  
 13 email, in terms of my own issues for next term just to  
 14 make it clear, I didn't want it to be misleading, I am  
 15 in a six week trial, it's a big trial, there are three  
 16 counsel, there is a senior leader and then me, I'm the  
 17 sort of first junior in the case.  
 18 MR JUSTICE HILDYARD: And that's proceeding in this  
 19 division, is it?  
 20 MR POTTS: It is in this division, it is a very large  
 21 shareholder dispute. So the point I wanted to make  
 22 clear was you shouldn't have the impression that I am  
 23 the leader in the case.  
 24 MR JUSTICE HILDYARD: That's very fair of you, thank you.  
 25 MR POTTS: My Lord, although having said that, there are

1 complications in the case, because it was adjourned from  
 2 this term --  
 3 MR JUSTICE HILDYARD: I think I know about this.  
 4 MR POTTS: A week before trial unfortunately my leader in  
 5 the case had to withdraw, and so the new leader who has  
 6 come in is new to the case, and so it's not as if I can  
 7 just sort of sit there for six weeks, I've got a very  
 8 significant role in the case, so it will be a very heavy  
 9 matter. So I know my own convenience of course is not  
 10 the binding -- it's not a sort of key point, but in  
 11 terms of the interests of my clients for preparation of  
 12 that trial, my preference would be that we could finish  
 13 this term as well. I think we should see how we go,  
 14 my Lord, would be my suggestion.  
 15 MR JUSTICE HILDYARD: Yes. I think I will just make the  
 16 following observations to assist you: the first is, yes,  
 17 of course, if we can fairly complete the case this term,  
 18 so much the better. I may very well need a little time  
 19 out to read for the next part of the case, though not as  
 20 much as half a day, probably.  
 21 The second is, because I need to accommodate this  
 22 other matter, you may well lose a sort of half day,  
 23 which I will alert you to.  
 24 The third is that, although I take very seriously,  
 25 Mr Potts, your own commitments, as I do yours,

1 Mr Stuart, nevertheless I would not be able to sit on  
 2 the 23rd. That is because I am dashing away as soon as  
 3 term ends, which it does on the Friday.  
 4 However, if you press me hard, and given your  
 5 commitments, and you thought it necessary, I would be  
 6 prepared to sit on the 9th, the Thursday before the  
 7 commencement of term, which would, whilst not ideal from  
 8 your point of view, because I know the difficulties of  
 9 keeping two heavy matters in your head at the same time,  
 10 nevertheless give you some breathing space, and some  
 11 acceleration. If it were not absolutely necessary, then  
 12 I do prefer to keep to the term times, as do the court  
 13 staff, for obvious reasons.  
 14 MR STUART: Thank you very much, my Lord. So we can proceed  
 15 with the next witness, Mr Vos.  
 16 MR JUSTICE HILDYARD: Yes.  
 17 MR WILLIAM GODFREY VOS (sworn)  
 18 MR JUSTICE HILDYARD: Mr Vos, do sit down. Help yourself to  
 19 water, as you need. If you need a break, please let me  
 20 know.  
 21 THE WITNESS: Thank you, my Lord.  
 22 Examination-in-chief by MR STUART  
 23 MR STUART: Mr Vos, could you just confirm your full name?  
 24 A. William Godfrey Vos.  
 25 Q. You should have bundle B, if you look in there at

1 tab number 4, first of all, it should be page 70 when  
 2 you get to tab 4.  
 3 A. Page 70.  
 4 Q. Yes, can you just confirm, is that your first trial  
 5 witness statement? If you flick on to page 119 in the  
 6 bundle, the last page of that tab, hopefully it's  
 7 signed; is that right?  
 8 A. Yes, it is my first witness statement --  
 9 Q. Is that your witness statement?  
 10 A. -- and my signature.  
 11 Q. Are the contents true?  
 12 A. The contents are true.  
 13 Q. Like your wife, can you speak up as much as you can?  
 14 A. Certainly.  
 15 Q. Much louder than that.  
 16 A. Okay.  
 17 MR JUSTICE HILDYARD: I am, as is no doubt appropriate for  
 18 a judge, slightly deaf, so if you can keep your voice  
 19 up, I would be very much obliged.  
 20 A. I shall try, my Lord.  
 21 MR STUART: If you just flick over to tab 5, you made  
 22 a short second witness statement, just three pages,  
 23 pages 120 to 122. Do you have that?  
 24 A. I do.  
 25 Q. Is that also your witness statement?

1 A. It is.  
2 Q. And the contents are true?  
3 A. The contents are true.  
4 Q. Then finally a short further statement was added, if you  
5 go right to the back of the bundle, page 168 --  
6 A. Yes.  
7 Q. -- through to page 172, I think, might have your  
8 signature on it?  
9 A. Yes.  
10 Q. Is that your statement?  
11 A. That is my statement.  
12 MR STUART: Just wait there, Mr Potts will have some  
13 questions for you.  
14 Cross-examination by MR POTTS  
15 MR POTTS: Good morning, Mr Vos. Could you turn up your  
16 first statement, please, which is at tab 4? You refer  
17 in paragraph 1 to being a businessman and you refer to  
18 an extensive background. Can I ask: what formal  
19 qualifications do you have?  
20 A. I have qualifications of an organisation called the  
21 administration of -- Institute of Administration and  
22 Commerce, and a long time ago the Chartered Institute of  
23 Secretaries.  
24 Q. But you are not a --  
25 A. I have never kept those up, no.

1 Q. You're not a qualified accountant --  
2 A. I'm not a chartered accountant.  
3 Q. Or a certified accountant?  
4 A. No.  
5 Q. Nor a management accountant.  
6 A. No.  
7 Q. On some of your invoices you refer to yourself -- some  
8 of the company invoices in fact I think you refer to the  
9 trading name W Godfrey Vos FASA?  
10 A. Yes.  
11 Q. What's the "FASA"?  
12 A. That is the Financial and Accountancy Services  
13 Association.  
14 Q. Financial?  
15 A. Financial and Accountancy Services Association.  
16 Q. I have to say, I have never heard of that.  
17 A. Well, it was a group, my Lord, of businessmen, I think  
18 there were 20, 25 of us at some point in time, who  
19 worked together to provide various services. We had  
20 marketing consultants, accountants, tax advisers, DTP  
21 experts, human resources people, so that we could  
22 provide a full service. If I had a client, for example,  
23 who needed some of those services, I would bring in  
24 other people from that.  
25 Q. I see. At paragraph 9 you refer to private business

1 interests during this period. Between 2005 and 2009,  
2 what other business interests did you have?  
3 A. I used to provide services for companies who were in  
4 financial trouble, restructuring, finding new business  
5 loans, et cetera.  
6 Q. Was that through a vehicle, a company vehicle?  
7 A. That was through myself, yes, personally.  
8 Q. Personally?  
9 A. Yes.  
10 Q. You were a director of a couple of other companies at  
11 the time, or secretary as well?  
12 A. Yes.  
13 Q. Which one? There was Parkside Management?  
14 A. Parkside Management.  
15 Q. What else?  
16 A. There would have been Finestone Financial Services,  
17 Finestone Finance, Optimisation Healthcare Group,  
18 Optimisation For Your Eyes Only, that I can recall at  
19 the moment.  
20 Q. And Pure Finance Company?  
21 A. And the Pure Finance Company.  
22 Q. What is that one?  
23 A. That is a dormant company.  
24 Q. Okay. You were shown at Companies House as being  
25 a director of a company called POW Property Services,

1 I think, during that period, on the company search. Was  
2 that an active company?  
3 A. No, that is long before Specsavers' days, I think you  
4 will find that that was a long time prior to that.  
5 Q. Just going back to paragraph 3 of your witness  
6 statement, you refer to having carried out some work at  
7 Worthing on a consultancy basis?  
8 A. Yes.  
9 Q. And you say that you charged a nominal fee for that?  
10 A. I did.  
11 Q. You see that three lines up from the bottom. Could you  
12 pick up E7, please? Keep your statement open, I think  
13 that would probably be helpful. If you go towards the  
14 back of the bundle, I hope it's been updated, 1760 is  
15 a schedule which has been prepared of the invoices from  
16 the various entities, both personally, if you look at  
17 1760 --  
18 A. Yes.  
19 Q. -- is the schedules in your personal name, if you like,  
20 just without anything which is the Godfrey FASA, and you  
21 will see there is some 3,000, 4,000 there. Do you see  
22 that?  
23 A. I do.  
24 Q. Over the page at 1761 are some invoices in the name of  
25 Optimisation Healthcare Group. The grand total is 59 on

1 1762, some £59,200?  
 2 A. These documents, my Lord, were only produced as  
 3 disclosures in the last couple of days, so I haven't had  
 4 the opportunity to compare these figures with any of my  
 5 own records.  
 6 Q. Okay.  
 7 A. They weren't produced before.  
 8 Q. Okay. It is a summary -- take it from me that this is  
 9 an attempt to summarise -- at least take it from me the  
 10 59,000 is a summation of those invoices above, okay, for  
 11 optimisation?  
 12 A. Since November 2005 to February 2008.  
 13 Q. To February 08?  
 14 A. Right.  
 15 Q. Then we have Finestone, which is from 31 March 2008 to  
 16 June 2009, 40,919; do you see that?  
 17 A. Yes.  
 18 Q. So the grand total of between August 2005 and June 2009  
 19 is £104,642, if you take the maths from me. It's always  
 20 dangerous from a barrister, but that's the summation of  
 21 the amounts you have invoiced?  
 22 A. If you say so.  
 23 Q. Okay.  
 24 A. I can't confirm it, obviously, because I haven't checked  
 25 them.

13

1 Q. No. That's quite different from the nominal figure that  
 2 you talk about in terms of Worthing isn't it? It's  
 3 quite a substantial sum.  
 4 A. I don't think these apply to Worthing whatsoever.  
 5 Q. No. The point is that you were invoicing a very  
 6 significant sum to Bognor, and only a nominal sum to  
 7 Worthing; correct?  
 8 A. That is I think what I said in my statement, yes.  
 9 MR JUSTICE HILDYARD: Can I just make quite sure and have  
 10 recorded: although these documents are contained in the  
 11 chronological sequence, they are documents compiled  
 12 recently, after the event?  
 13 MR POTTS: My Lord, yes.  
 14 MR JUSTICE HILDYARD: They are analyses rather than source  
 15 documents?  
 16 MR POTTS: Quite right, my Lord, yes, it's an analysis  
 17 rather than source documents.  
 18 MR JUSTICE HILDYARD: Yes.  
 19 MR POTTS: Now, you say, paragraph 24 of your statement,  
 20 that you wrote virtually all the communications with  
 21 Specsavers; is that right? Most of the store's dealings  
 22 with Specsavers and virtually all the communications  
 23 issued was from you, even though it was in the name of  
 24 Mr Weller and your wife; is that correct?  
 25 A. That's correct.

14

1 Q. Your wife confirmed that, in fact on Monday, I think, if  
 2 you remember? You were in court. Paragraph 38, you  
 3 refer to managing what you refer to as a crisis on the  
 4 departure of Ms Downing on the healthcare services  
 5 provision to the store; is that right?  
 6 A. That's correct.  
 7 Q. You wrote some emails to Specsavers at the time?  
 8 A. I did, yes, I think.  
 9 Q. That helps, let me help you. Can I show you E1?  
 10 I think you can put E7 away for the moment. Page 218,  
 11 please. That was an email that you drafted for your  
 12 wife to be sent on 27 June. Do you remember seeing  
 13 that? We saw that with your wife.  
 14 A. That I drafted for my wife but mainly for Mr Weller,  
 15 because Mr Weller was the one who was very upset about  
 16 what had occurred.  
 17 Q. In fact it's actually signed only by your wife, isn't  
 18 it?  
 19 A. Yes. Let me see.  
 20 Q. 219?  
 21 A. Yes.  
 22 Q. So not Mr Weller?  
 23 A. No, I am sorry, Mr Weller was involved in it, it was as  
 24 a result of his concerns that we wrote the letter and my  
 25 wife may have signed it but Mr Weller instigated it.

15

1 Q. I see. You accused Mr Edgar of gross incompetence in  
 2 that letter; is that right?  
 3 A. I do.  
 4 Q. In the third paragraph?  
 5 A. Yes.  
 6 Q. Ms Downing had resigned; she was entitled to resign, is  
 7 that right? It wasn't down to Specsavers?  
 8 A. Certainly she was entitled to resign, but Specsavers  
 9 would have been responsible for ensuring, my Lord, that  
 10 there was somebody to replace her and that we didn't  
 11 suddenly have people -- and Mr Weller was in the firing  
 12 line at the time -- off the street coming for  
 13 appointments basically screaming and shouting at him and  
 14 putting him under a lot of pressure because there was  
 15 no-one there to undertake Hearcare tests.  
 16 Q. I see. If you turn on to page 232, Mr Dyson wrote  
 17 a response to your wife on 23 July, noting that he was  
 18 concerned about the confrontational tone of the  
 19 correspondence?  
 20 A. Yes.  
 21 Q. Do you see that in the fourth paragraph down; yes?  
 22 A. Yes.  
 23 Q. And concern about an increasingly inflammatory and  
 24 aggressive stance towards personnel?  
 25 A. Well, this is how Specsavers always reacts when you

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1 criticise any of their staff or any of these -- you  
 2 described in your opening as low level employees of the  
 3 Specsavers Optical Group. Wherever there was  
 4 a situation where you had to criticise them or get angry  
 5 with them for some reason, Mr Dyson would immediately  
 6 come flying back and accuse one of all sorts of things,  
 7 and say that one's communications were over the top, but  
 8 in fact one had cause to complain, and justification for  
 9 the complaints.  
 10 But as always with Specsavers, they would not take  
 11 responsibility for anything, and the minute that you  
 12 approached them, my Lord, about anything or any problem,  
 13 they wouldn't address the problem, they would come  
 14 straight back to you with some sort of putdown or angry  
 15 response to shut you up.  
 16 Q. This was not an angry response, all he was asking for in  
 17 the last paragraph, if you look, was asking for  
 18 an assurance that the style of communication would  
 19 change so that you could move forward together in  
 20 a mutually respectful manner to achieve the aims of the  
 21 business; what's wrong with that?  
 22 A. Well, that is Mr Dyson's putting it in his polite way,  
 23 and he is not normally a very polite gentleman.  
 24 Q. So if you put E1 away, and if you could be passed E2,  
 25 please. Now, at page 330, please, if you could turn

1 that up?  
 2 A. I have it.  
 3 Q. That's an email from Mr Rowe, and he contacted your wife  
 4 and Mr Weller on 29 February asking to meet to discuss  
 5 the nature of the relationship with Optimisation  
 6 Healthcare Group; is that right?  
 7 A. That appears to be correct, yes.  
 8 Q. And concerns regarding invoicing; correct?  
 9 A. Correct.  
 10 Q. In fact, as we have seen, and explored with your wife,  
 11 all but three of the invoices which have been rendered  
 12 during that period have been rendered by Optimisation  
 13 Healthcare Group in respect of largely your services;  
 14 that's right?  
 15 A. That is correct, yes.  
 16 Q. Sorry, if you could turn back to E7 -- I am sorry to  
 17 jump around in the bundles -- please, to the analysis at  
 18 1761. We see at 1761 and 1762 the Optimisation  
 19 invoices. So that shows that between November -- in  
 20 fact perhaps you can take the -- 2005 and February 2008,  
 21 some £59,291 were paid to Optimisation; correct?  
 22 A. That is what you say, I can't confirm that.  
 23 Q. Now, in fact, looking at this schedule, the vast bulk of  
 24 the services, the amounts were referable largely to your  
 25 services rather than some kind of facilitation services

1 or disbursements, the accommodation point registration  
 2 of staff and so on; is that right?  
 3 A. Yes, but the query was not about my services, the  
 4 queries were about the invoices which clearly stated on  
 5 the top of them "Optimisation Healthcare Group", and  
 6 that was what the query was about. The query wasn't  
 7 about W Godfrey Vos or Optimisation Healthcare Group  
 8 trading as Godfrey Vos.  
 9 Q. We saw that email, and it doesn't make that distinction  
 10 at all, it talks about the services provided by  
 11 Optimisation Healthcare, doesn't it?  
 12 A. Well, at that point in time, Mr Potts, Mr Rowe didn't  
 13 know, or hadn't recognised that Optimisation Healthcare  
 14 Group was also charging my services out, so that is not  
 15 correct. His only query at the time was to do with the  
 16 invoices they actually had on their notepaper  
 17 "Optimisation Healthcare Group Limited". The invoice is  
 18 W Godfrey Vos, which said "Trading as" at the bottom, he  
 19 hadn't even picked up. So I don't accept that they were  
 20 included in it.  
 21 Q. Let's go back to 330 in E2, please. He doesn't make  
 22 that distinction in that email at all, does he?  
 23 A. Well, Mr Potts, of course he wouldn't be able to make  
 24 a distinction in that email, because he didn't know  
 25 about it. If he knew about it, he would have made the

1 distinction, wouldn't he? I don't understand the point,  
 2 my Lord, that he is trying to make. I am quite clearly  
 3 saying that Mr Rowe, who is a witness in this case and  
 4 can be cross-examined on it, did not know about  
 5 W Godfrey Vos being part of Optimisation Healthcare  
 6 Group. The only invoices he was interested in were the  
 7 ones that actually had the heading Optimisation  
 8 Healthcare Group. Mr Potts, you can twist it whatever  
 9 way you like, but you are not going to get another  
 10 answer out of me.  
 11 Q. Mr Vos, you are an experienced businessman, you say;  
 12 correct?  
 13 A. I do.  
 14 Q. The invoices you rendered, whether it was a trading name  
 15 or not, were in the name of Optimisation Healthcare  
 16 Limited; correct?  
 17 A. That's correct.  
 18 Q. So the legal entity that was charging for your services  
 19 was that company; correct?  
 20 A. Correct.  
 21 Q. This email talks about the invoices from that company,  
 22 doesn't it?  
 23 A. It is talking about the email, the email is talking  
 24 about invoices from that company on that company's  
 25 notepaper.

1 Q. It doesn't say that at all, does it?  
 2 A. Well, I've just said to you, the reason it doesn't say  
 3 that because at that time Mr Rowe didn't know about  
 4 W Godfrey Vos and that being a trading name of.  
 5 Q. You were in court on Monday when we went through those  
 6 invoices; correct? Do you remember?  
 7 A. Yes, I understand that those invoices were only  
 8 disclosed just prior to my wife going through them.  
 9 Q. That's not true. These were invoices which were  
 10 disclosed a long time ago, they were not in the bundle,  
 11 but they were disclosed. The documents which were in  
 12 the bundle were your own file note copies which you had  
 13 exhibited to a statement, but they didn't have the  
 14 company details, the invoices were disclosed, Mr Vos.  
 15 A. Well, my invoices were disclosed, my copies, but not the  
 16 invoices that you disclosed, which were Specsavers  
 17 copies, were not --  
 18 Q. Mr Vos, I am not going to argue that with you, but the  
 19 position is that they were disclosed at the time of  
 20 disclosure in this action, Mr Vos.  
 21 Can I take you, please, to the accounts for  
 22 Optimisation Healthcare Group, which is in E2/372-1.  
 23 A. Yes.  
 24 Q. You were a 50 per cent shareholder and director of the  
 25 company? You see that at 372-2?

21

1 A. Yes.  
 2 Q. And you were the company secretary?  
 3 A. Yes.  
 4 Q. If you turn over to page 372-4, you can see that the  
 5 turnover for that year, 2007, end of July 2007, was  
 6 £27,642; correct?  
 7 A. 41, I think it says.  
 8 Q. 27,641, I am sorry, quite right.  
 9 During that period, Optimisation invoiced Bognor for  
 10 £26,856.09, in fact, during the whole year. That's what  
 11 the invoice is showing?  
 12 A. That's what the invoices you say show, yes.  
 13 Q. So in fact the amount paid by Bognor constituted  
 14 97 per cent, if you trust me on the maths, of the  
 15 turnover for that year for Optimisation; is that right?  
 16 A. That could well be the case, yes.  
 17 Q. So effectively almost the entire income of Optimisation  
 18 for that year was made out of amounts taken out by you  
 19 from Bognor; correct?  
 20 A. When you say "taken out", Mr Potts, what do you mean by  
 21 that?  
 22 Q. Let me do this neutrally. Paid by Bognor?  
 23 A. Invoiced to Bognor and paid by them.  
 24 Q. Yes. It wasn't supplying services to other parties  
 25 during that period?

22

1 A. Probably not, because I probably didn't have a lot more  
 2 time to supply services through that company at that  
 3 time.  
 4 Q. Mr Vos, I put it to you that it was a vehicle for  
 5 extracting money from Bognor; do you accept that?  
 6 A. Why? Why would it have been a vehicle for extracting  
 7 money from Bognor?  
 8 Q. Can you just answer my question, please, rather than ask  
 9 them.  
 10 A. Well, please explain your question, sir.  
 11 Q. This was a company, it was your vehicle, it was not  
 12 doing anything else, and all it was doing was taking  
 13 money out of Bognor?  
 14 A. I was invoicing Bognor for my services that I provided,  
 15 and it was paid into that company, so it was not  
 16 a vehicle for taking money out of Bognor.  
 17 Q. Can we go back to E2, please, and in the same volume,  
 18 page 331. This is a response you drafted on 3 March,  
 19 correct, to be sent to Mr Rowe?  
 20 A. Yes. That's likely, yes.  
 21 Q. If you see the sort of, if you like, a trademark style  
 22 point, you tend to use inverted commas around words, we  
 23 have seen, in documents provided. This one has, for  
 24 example "recover the VAT below", do you see that, "all  
 25 the intrigue", "why this personal visit", do you see

23

1 that in inverted commas?  
 2 A. Yes.  
 3 Q. Do you recognise that as your style?  
 4 A. I do, yes.  
 5 Q. Now, in this email you don't refer to your interest or  
 6 your wife's interest in the company, do you?  
 7 A. No, I don't, because Specsavers already knew about my  
 8 wife and my interest in the company.  
 9 Q. You say in this email that it's a facilitation company  
 10 providing services for dentists, et cetera; correct?  
 11 A. Correct.  
 12 Q. "Neither of us are personally involved in the provision  
 13 of the services"; yes?  
 14 A. Correct.  
 15 Q. In fact, the only company we have seen really, the only  
 16 company it was providing services for was Bognor, wasn't  
 17 it?  
 18 A. Well, facilitation is when you pay something for someone  
 19 else on their behalf and you recover the money for them,  
 20 so that's not turnover.  
 21 Q. Sorry, you haven't answered my question. The only party  
 22 it was providing services for was Bognor?  
 23 A. No, that's not correct.  
 24 Q. Well, we have just looked at some accounts.  
 25 A. I am just saying to you it's not correct, because we

24

1 would have paid things for other companies, which we  
 2 would have recovered, but that wasn't a turnover. It  
 3 was a recovery of a disbursement.  
 4 Q. In terms of the description of the services, you talk  
 5 about that it does accommodation for locums, ensuring  
 6 that optoms are registered with professional bodies,  
 7 making booking for training; correct?  
 8 A. That's correct, yes.  
 9 Q. It doesn't provide, you don't refer to your services in  
 10 this, do you?  
 11 A. No. No, because, as I said, we were dealing with just  
 12 the invoices for Optimisation Healthcare Group that  
 13 Mr Rowe was talking about.  
 14 Q. Well, he doesn't make any distinction in his email, we  
 15 have shown that?  
 16 A. You keep saying that, Mr Potts, but I am telling you  
 17 that was the case. You know, you pick up a document  
 18 that Mr Rowe does not know about the other side of it,  
 19 and you keep on hammering away at the same point all the  
 20 time and it's not true.  
 21 Q. You also don't mention the interests of your wife and  
 22 yourself in this company either?  
 23 A. I don't have to, because Specsavers already knew the  
 24 interests of myself and my wife in the company.  
 25 Q. Let's move on to 342. In the middle of the page is

1 a further email drafted by you on 17 March?  
 2 A. (Pause). Halfway down the page?  
 3 Q. Yes. 10.47 am, to Mr Rowe. Do you see that?  
 4 A. Yes.  
 5 Q. Was that email drafted by you?  
 6 A. I'm certain it probably was, yes.  
 7 Q. You see, that refers, towards the bottom of the page:  
 8 "There are no special relationships with any  
 9 suppliers of goods and services to this company whoever  
 10 they may be, any suggestion ... it is not on an  
 11 arm's-length basis ... offensive and insulting."  
 12 Do you see that?  
 13 A. Yes.  
 14 Q. That's inaccurate as well, wasn't it? There was  
 15 a special relationship. It was a company owned by you  
 16 and your wife?  
 17 A. And Specsavers were aware of that.  
 18 Q. Your wife accepted that the explanation in this letter  
 19 was misleading and inaccurate. Do you accept that?  
 20 A. No, I don't, because there were no special  
 21 relationships, with any of the suppliers of goods and  
 22 services.  
 23 Q. You --  
 24 A. That doesn't say there were no special relationships  
 25 with my wife and I within the company, it's the

1 suppliers of goods and services which was --  
 2 Q. Well, you were a supplier --  
 3 A. Which --  
 4 Q. -- of services. You were a supplier of goods and  
 5 services?  
 6 A. And they were aware of that.  
 7 Q. Sorry, what you are saying here is that there are no  
 8 relationships with suppliers of goods and services. You  
 9 were a supplier of goods and services but you were not  
 10 telling them that actually, that the company was being  
 11 supplied goods, services, by a company in which your  
 12 wife and you were the owners?  
 13 A. That actually says "There are no special relationships  
 14 with any suppliers of goods and services to this  
 15 company", so there is no special relationship between  
 16 any suppliers of goods and services to Optimisation  
 17 Healthcare Group to this company. It's not to Bognor,  
 18 it's not talking about Bognor, it's talking about  
 19 Optimisation Healthcare Group. So we didn't have any  
 20 special relationships with anybody who supplied goods  
 21 and services to Optimisation Healthcare Group.  
 22 Q. If the position was that your view was that everything  
 23 was completely clear and they all knew what was going on  
 24 with optimisation and who owned it, surely you would  
 25 have said that in the email, wouldn't you? "Why are you

1 asking this? You know who owns it. You know you agreed  
 2 to us doing this". You don't say that, do you?  
 3 A. That's all semantics, Mr --  
 4 Q. Can you answer my question, Mr Vos? You don't say that.  
 5 do you?  
 6 A. No, I do not say it in that email, because they were  
 7 already aware of it.  
 8 Q. If they were aware of it --  
 9 A. Did you want me to repeat myself?  
 10 Q. If they were aware of it, that he was asking for  
 11 an explanation and if the answer was: you don't need to  
 12 ask for an explanation because you know all about it  
 13 already, you would have said so, wouldn't you?  
 14 A. Well, if he was asking for an explanation, Mr Potts, and  
 15 he was asking for an explanation because he knew about  
 16 it, are you trying to say that I should have then gone  
 17 ahead and told him again that he knew about it?  
 18 Q. I've shown you the original email from him, where he  
 19 asks -- he tells you what the meeting is going to be  
 20 about, because he wants an explanation about this  
 21 company and the services and invoicing, and if the  
 22 explanation was "I don't understand why you are asking  
 23 this because you know all about it", you would have said  
 24 so?  
 25 A. I don't think so, because Mr Rowe only raised the query

1 because he knew that my wife and I were involved in the  
 2 company, and what he did was he came to the meeting and  
 3 he knew about it, and he was trying to make out that my  
 4 wife and I were stealing from Mr Weller. So Mr Rowe  
 5 well knew about it. He insulted my wife at that  
 6 meeting, she was very upset about it, but that was his  
 7 intention, or that was what he did, my Lord. So Mr Rowe  
 8 knew about it before these emails were even written.  
 9 MR JUSTICE HILDYARD: Can I just clarify -- I am sorry,  
 10 Mr Potts -- but just where there is the capitalisation  
 11 "there are no special relationships with any suppliers  
 12 of goods and services to this company", do I understand  
 13 your evidence correctly, that you say the reference to  
 14 "this company" is to Optimisation Healthcare Group?  
 15 A. That is correct, my Lord.  
 16 MR JUSTICE HILDYARD: Is that the same as, when you refer to  
 17 it on the next page as "this company", is that also to  
 18 Optimisation Healthcare?  
 19 A. Which part are we talking about?  
 20 MR JUSTICE HILDYARD: I am so sorry, in the first separate  
 21 paragraph on the next page.  
 22 A. The more than 90?  
 23 MR JUSTICE HILDYARD: "... more than 90 per cent of the  
 24 goods and services obtained by this store from companies  
 25 of which directors of this company are also directors."

1 Is that Healthcare Group or is that Bognor?  
 2 A. No, my Lord, that is to do with Specsavers' companies.  
 3 What I was saying there was that more than 90 per cent  
 4 of the goods and services obtained by the Bognor store  
 5 are from companies of which the Specsavers, the B  
 6 directors, are also directors of this company. In other  
 7 words, the accusation they make against my wife and  
 8 I with Optimisation Healthcare Group goes to Specsavers  
 9 supplying service -- where they are directors of the  
 10 Bognor companies, were also directors of other companies  
 11 supplying goods and services to the Bognor companies,  
 12 including the training services to Bognor store by  
 13 a Mr Chris Howarth, who supplied the services through  
 14 his own private company called CH Holdings Limited.  
 15 That is what I was trying to get across there, that the  
 16 accusations that Specsavers were making against us, when  
 17 they were doing exactly the same sort of thing  
 18 themselves, was a little bit out of order.  
 19 MR JUSTICE HILDYARD: Well, I'll leave that to any further  
 20 exploration that is necessary, but I just want it  
 21 clarified in any mind whether the phrase "of this  
 22 company" on the second page had a different meaning to  
 23 what it did on the first page?  
 24 A. Well, I would say "obtained by the store" I say don't --  
 25 MR JUSTICE HILDYARD: "From companies of which directors of

1 this company are also directors", that's all I wanted to  
 2 clarify.  
 3 A. Yes, sir, because that is the Bognor store.  
 4 MR JUSTICE HILDYARD: That's the Bognor store?  
 5 A. Yes.  
 6 MR POTTS: If I may, Mr Vos, can I just take that a little  
 7 further? At 343 you have accepted that "this company"  
 8 there is Bognor, but you are saying at 342 "this  
 9 company" is Optimisation. Can I put it to you that  
 10 makes absolutely no sense if you read that paragraph.  
 11 The paragraph is talking about, saying:  
 12 "There is no special relationships with suppliers of  
 13 goods or services to this company", whoever they mean,  
 14 and then it goes on:  
 15 "Any suggestion that such goods and services are not  
 16 rendered on an arm's length basis is offensive. It is  
 17 presumptuous for anyone at SOG to believe otherwise."  
 18 The concern is in relation to the services that are  
 19 being rendered to the store. That's what he is  
 20 exploring, and that's what this is responding to,  
 21 saying, you are saying here: the suggestion that the  
 22 services being provided to Bognor are not being provided  
 23 on a proper basis is offensive, the reference to  
 24 Optimisation would have nothing to do with it?  
 25 A. Well, I've given you my answer, Mr Potts. If you want

1 to interpret it in another way, then that's up to you.  
 2 Q. Now could we turn on to 338, please? Sorry, back, in  
 3 fact. This is a letter that you wrote to Gill Morris in  
 4 the tax department; is that right? I think this is your  
 5 letter again, it has the inverted commas in the fourth  
 6 paragraph down. Was that your letter?  
 7 A. I would assume so. I assume it must be, Mr Potts, but  
 8 I would question, as you claim I didn't do any work for  
 9 the company at all, or hardly any --  
 10 Q. Could you just answer --  
 11 A. Yes, it is my letter.  
 12 Q. Thank you.  
 13 A. Put it this way, it was drafted by me on the  
 14 instructions of Mr Weller and Dr Poulsen.  
 15 Q. Right. You express in the penultimate paragraph  
 16 concerns about a newsletter, you talk about:  
 17 "We are concerned at the tone of comments in the  
 18 partners' letter, which seems to presume that JVPs are  
 19 dishonest."  
 20 Do you see that?  
 21 A. Yes.  
 22 Q. In your witness statement, if that assists you, at  
 23 paragraph -- I think we can put E7 away -- 89, I think  
 24 it's page 88 in the top right, it's paragraph 89 of your  
 25 statement?

1 A. Yes.  
 2 Q. You say --  
 3 A. Sorry, 89?  
 4 Q. 89, the partners' newsletter.  
 5 A. So is that 89 page or paragraph?  
 6 Q. I am so sorry, it's paragraph 89 on page 88.  
 7 A. Okay.  
 8 Q. You have that?  
 9 A. I do.  
 10 Q. You refer there to a partners' newsletter containing  
 11 an article directed at stores where directors employ  
 12 family members and indulged in income splitting, tax  
 13 avoidance advice, family members shown to be receiving  
 14 remuneration not commensurate with their duties. You  
 15 say:  
 16 "We had a sense it was directed at us to warn us off  
 17 the pursuit of information on the VAT situation."  
 18 Is that right?  
 19 A. That's correct, that's what I say.  
 20 Q. This was a newsletter which was sent to well over 1,000  
 21 Specsavers joint venture partners, wasn't it?  
 22 A. I don't know. I don't know who it was sent to.  
 23 Q. Well, you talk about the partners' letter, this was  
 24 a publication which was sent out to everybody, wasn't  
 25 it?

1 A. Yes, I don't know who they sent it out to.  
 2 Q. Well, let's have a look. If you turn back a page to  
 3 337, the second paragraph makes it clear that this was  
 4 a directors' newsletter?  
 5 A. Okay.  
 6 Q. So it was sent out to everybody, wasn't it?  
 7 A. I assume so.  
 8 Q. So it was sent out to over 1,000 partners, but you  
 9 thought it was aimed specifically at you, did you?  
 10 A. No, I thought it was aimed at companies like us that had  
 11 family members working in the company, which -- yeah.  
 12 Q. That's not what you say in paragraph 89, Mr Vos, is it?  
 13 A. Well, I am saying it was addressed to us, because we  
 14 were one of the companies that had families working in  
 15 the company.  
 16 Q. No, that's not what you say, you say:  
 17 "We had a sense it was directed at us to warn us off  
 18 the pursuit of information on the VAT situation."  
 19 A. Yes.  
 20 Q. So that's not about the fact you had family members, you  
 21 are saying this was specifically aimed at just you,  
 22 isn't it?  
 23 A. No, I didn't say that, did I? I said that we had  
 24 a sense that it was directed at us to warn us of the  
 25 pursuit of information. I didn't say "at just us",

1 I said "at us".  
 2 Q. Well, are you suggesting that lots of -- you were the  
 3 ones saying that you had asked to request about the VAT  
 4 situation, you were trying to say that they were trying  
 5 to frighten you off?  
 6 A. I don't understand what you are trying to get at.  
 7 Q. I am just putting to you that you are suggesting that  
 8 this document which was sent to thousands of people, and  
 9 you are saying that it was directed at you?  
 10 A. We are saying it was directed at us and people like us,  
 11 yes.  
 12 Q. That's not what it says, is it?  
 13 A. Sure, Mr Potts, I should have added in there "and other  
 14 companies like us".  
 15 Q. Was this because in fact you were sensitive to the fact  
 16 that what you were doing might be considered  
 17 inappropriate and SOG wouldn't approve?  
 18 A. No, I wasn't at all sensitive to it. I mean, why should  
 19 I be sensitive to something that the Perkins family are  
 20 doing themselves, where you have Mr Perkins,  
 21 Mr Doug Perkins, Dame Mary Perkins, the husband and wife  
 22 working with each other, John Perkins, the son, and the  
 23 daughters all working in the company, as none of them  
 24 pay any tax anyhow, because we are all located offshore,  
 25 and Dame Perkins is a billionaire, so she has never paid

1 any UK tax, you know. Why should that be any different?  
 2 Q. I put it to you it's completely different, Mr Vos.  
 3 That's a nice speech, but it's a completely different  
 4 situation, isn't it? They make the point, if you look  
 5 at 337 -- let's look at her response to you -- she is  
 6 setting out the position in relation to the employment,  
 7 she says:  
 8 "The piece in the newsletter in relation to  
 9 employment of family members doesn't refer to  
 10 correspondence with HMRC."  
 11 She refers to income splitting being an abuse:  
 12 "... with members of a ... family receiving  
 13 remuneration where no work is performed for the business  
 14 or the remuneration doesn't accurately reflect the  
 15 duties carried out."  
 16 That's the issue, isn't it, on income splitting?  
 17 A. Well, Mr Potts, when we talk about income splitting,  
 18 my Lord, that means that there is some way that one is  
 19 trying to save some sort of income tax. Now, in the  
 20 Bognor Regis store, Specsavers have made allegations to  
 21 HMRC that we were basically defrauding the tax man, but  
 22 the figure that they have come up that we have defrauded  
 23 the tax man by over -- since 2005 is £3,200. So in  
 24 other words, they are saying that by me receiving  
 25 an income, as opposed to Dr Poulsen and Mr Weller

1 receiving that income, we managed to defraud the tax man  
2 out of £3,200, and I don't understand why we should go  
3 to such an intricate tax avoidance scheme to income  
4 split to save £3,200. It doesn't make any sense. So  
5 all this waffle, Mr Potts, that you are coming up with,  
6 you haven't come up with a good reason why we would want  
7 to go to all this effort and trouble and all this  
8 manoeuvring and producing of documents to save 3,000 --  
9 I think it's £3,200-odd. That is the allegation that  
10 Specsavers have made to HMRC. Strangely enough, not at  
11 the time, but over two and a half years later.  
12 Q. Can I go back to the question I asked, Mr Vos? I am  
13 saying you understand what income splitting is, don't  
14 you?  
15 A. I do.  
16 Q. Right.  
17 A. I've just given you a long explanation as to what -- how  
18 I understand it.  
19 Q. The final paragraph deals with her response, she is  
20 saying:  
21 "It wasn't intended to be threatening, just  
22 reminding directors of the store."  
23 That was reminding everybody, it wasn't just you,  
24 was it?  
25 A. If you say so.

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1 Q. She is saying there is no issue:  
2 "Family members do work in the store legitimately  
3 and for a reasonable salary. There is no issue where  
4 this is the case. However, when family members receive  
5 more than would be paid to a member of staff who is  
6 unrelated, there is a risk that HMRC would treat this as  
7 income splitting."  
8 You see that?  
9 A. I do.  
10 Q. She was just quoting SOG policy in relation to family  
11 members working in the business, nothing more, nothing  
12 less?  
13 A. If you say so.  
14 Q. Well, do you accept it or not?  
15 A. This is a letter to Dr Poulsen and Mr Weller, and she  
16 is -- yes, she is reiterating that that's SOG's policy.  
17 Q. Right, thank you.  
18 MR JUSTICE HILDYARD: You see, I think what is being put to  
19 you -- I am sorry again, Mr Potts -- is that your case  
20 is that there was a, as it were, targeted vendetta  
21 against you and your wife and Mr Weller. Did you regard  
22 this letter as part of it or not?  
23 A. We did, yes, at the time we did.  
24 MR JUSTICE HILDYARD: Yes.  
25 I am sorry, Mr Potts.

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1 MR POTTS: Not at all.  
2 A. My Lord, it wasn't just my wife and I, it was Mr Weller  
3 as well, because --  
4 MR JUSTICE HILDYARD: Yes, I added Mr Weller at the end.  
5 MR POTTS: Could we turn to 340, please?  
6 A. That's the same bundle, is it?  
7 Q. Yes. Towards the bottom of the page is an email drafted  
8 by you?  
9 A. Yes, it would have been.  
10 Q. And this talks about you suggest he is being less than  
11 candid and very cagey?  
12 A. Yes, we did, for a good cause.  
13 Q. Well, in terms of the purpose, he had already told you  
14 the purpose of the meeting in his email of 29 February,  
15 hadn't he?  
16 A. What page?  
17 Q. Sorry?  
18 A. Page?  
19 Q. Page 330, first paragraph:  
20 "Concerns over the invoicing of Optimisation  
21 Healthcare Group, purpose is to discuss the nature of  
22 the relationship and the concerns ref the invoicing."  
23 A. Yes.  
24 Q. So he told you what the purpose of the meeting was?  
25 A. He had not told us entirely what the purpose of the

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1 meeting was, all he said was it concerns over invoicing  
2 from a company, Optimisation Healthcare Group.  
3 Dr Poulsen had contacted him, I think it may have been  
4 telephonically, saying "Can you provide us with the  
5 details, give us a list of what the problems are, let us  
6 see what they are so we can answer them".  
7 Specsavers, my Lord, had this -- they do it with  
8 this infamous loss prevention team of theirs as well,  
9 does it as well, where they corner you, they ambush you  
10 into a meeting and ask you lots of questions where you  
11 don't have the opportunity to -- you haven't had the  
12 opportunity to review the information they are going to  
13 put to you. So all we were interested in was that they  
14 provide us with a list of the problems they had, the  
15 information they required, so that we could ask the  
16 questions. When we say they were cagey, they actually  
17 just ignored our requests for that. As you can see  
18 there, it says:  
19 "It is a concern to note that you have totally  
20 ignored the content of the previous two emails we have  
21 sent you".  
22 Q. Sorry, there is nothing at all about a telephone  
23 conversation in this, and your wife gave no evidence of  
24 it either?  
25 A. I believe she did make a telephone call, but that is my

40

1 recollection.  
 2 Q. If there had been a telephone call, wouldn't you have  
 3 referred to it here? You just referred to emails, not  
 4 a telephone call.  
 5 A. We made lots of telephone calls we probably haven't  
 6 referred to in our witness statements over the years,  
 7 Mr Potts.  
 8 Q. Let's move on. You refer on the second page at 341 to  
 9 consulting with a professional team?  
 10 A. Yes.  
 11 Q. That includes an accountant, that's you; is that right?  
 12 A. Actually it wasn't me, it was another accountant.  
 13 Q. Who was it?  
 14 A. A fellow called Robin Wilson.  
 15 Q. Your wife said it was you.  
 16 A. My wife said it was me because she thought it was me, at  
 17 the time, but I myself went and got advice from one of  
 18 the other partners in our FASA association, to get his  
 19 input.  
 20 Q. Okay. It goes on to say that:  
 21 "We will stop using the resources of the company  
 22 concerned, whose name you have still not got right."  
 23 That's Optimisation, is it?  
 24 A. Yes.  
 25 Q. If you thought there was absolutely nothing wrong with

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1 this, and it was a useful service and they knew all  
 2 about it, why did you say you were going to stop using  
 3 it?  
 4 A. Because they, Specsavers, have a habit of, when they are  
 5 targeting you, of finding a reason to get rid of you,  
 6 basically, so we thought it was in our best interests  
 7 that we stopped using the company.  
 8 Q. Was it because you realised that paying Optimisation in  
 9 this way risked breaching the policy in relation to  
 10 employment of family members and might be flagged up as  
 11 improper?  
 12 A. I just have gone through a big conversation with you,  
 13 Mr Potts, about --  
 14 Q. Could you answer my question?  
 15 A. No, I did not, Mr Potts, because as I explained to you  
 16 earlier, but you keep trying to shut me up, was that we  
 17 didn't have any concern about income splitting, because  
 18 I was already paying the maximum income tax and in the  
 19 report that Specsavers put to HMRC the only thing they  
 20 could find was £3,200.  
 21 Q. Sorry, the report is after the event. I am putting to  
 22 you: was the reason you were concerned because consent  
 23 hadn't been obtained in relation to the use of  
 24 optimisation?  
 25 A. No. No.

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1 Q. You didn't make any disclosure in any of these emails of  
 2 your or your wife's interest in the company, had you?  
 3 A. We have been through that before, it's because they knew  
 4 about it. You keep coming back to the same -- he keeps  
 5 coming back to the same question again, Mr -- my Lord.  
 6 MR JUSTICE HILDYARD: I appreciate your wish to get over  
 7 your case, and I understand why that should be so, and  
 8 I won't stop you from doing so on the first time you do  
 9 so. But I think otherwise it's best, probably, and  
 10 swiftest to listen carefully to the question that  
 11 counsel asks and answer it. If you want to amplify,  
 12 explain that you are amplifying and the reasons why.  
 13 I say this really for your own assistance, otherwise  
 14 this process will be very, very long.  
 15 A. Yes, my Lord.  
 16 MR JUSTICE HILDYARD: Yes.  
 17 MR POTTS: Were you aware that under the shareholders'  
 18 agreement, the use of a consultant required the consent  
 19 of SOG?  
 20 A. I was.  
 21 Q. None of these emails say that the consent of SOG had  
 22 been already obtained, do they?  
 23 A. Not in these emails, no.  
 24 Q. Can we turn on to 363? He writes to you on 3 April to  
 25 give notice of the BRM, that's a formal business review

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1 meeting, because you had refused to have an informal  
 2 meeting; correct?  
 3 A. Is that one that has 237 on the top of it?  
 4 Q. Yes, but that's in manuscript, it's 363 below it in  
 5 text. Do you see it?  
 6 A. Yes.  
 7 Q. He had given notice of a formal business review meeting,  
 8 because you had refused to meet with him informally;  
 9 correct?  
 10 A. Dr Poulsen and Mr Weller had refused to meet with him --  
 11 Q. You discussed it with them, I assume, had you?  
 12 A. I had.  
 13 Q. So three matters to discuss, the use of Optimisation  
 14 Healthcare Group as a supplier, deterioration and  
 15 breakdown of the relationship, and the tone and style of  
 16 communications; correct?  
 17 A. That's what it says.  
 18 Q. Yes. The letter doesn't take a threatening tone, does  
 19 it? (Pause) If you look at, for example, the  
 20 penultimate paragraph on the page:  
 21 "I am certain that when we meet we will be able to  
 22 resolve these three key issues and we can move forward  
 23 in a positive and constructive manner."  
 24 A. Yes --  
 25 Q. That's not a threatening tone, is it?

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1 A. No, it's not, but that is the way that Specsavers  
2 operates so that they don't leave a paper trail of when  
3 they are threatening.  
4 Q. In fact there was a meeting, obviously you weren't at  
5 that meeting, were you?  
6 A. I was present in the office.  
7 Q. You were in the office?  
8 A. I didn't actually -- I met Mr Rowe but I didn't actually  
9 go into the meeting.  
10 Q. If you go on to, let's say, the letter at 371, the  
11 matters discussed are identified, and no doubt that was  
12 discussed with you as well, that it was agreed as  
13 an action to stop using the services of Optimisation  
14 Healthcare Limited; correct?  
15 A. As I say, I wasn't party to the meeting, if it was  
16 agreed as an action it would have been agreed between  
17 Mr Weller and Dr Poulsen, they both assure me that they  
18 didn't actually agree that, that what they had actually  
19 agreed to was to have a chat to me about it, and that is  
20 what they did. They had a chat to me about it.  
21 Q. And also to arrange for you to be employed rather than  
22 provide consultancy services, that's the second bullet  
23 point?  
24 A. I don't -- I don't believe that that was what it was,  
25 but I mean, I can't answer for them, but I didn't come

1 to an agreement that I would be employed with Mr Rowe or  
2 Specsavers Optical Group.  
3 Q. Your wife accepted eventually yesterday that she had  
4 received this letter, firstly, and secondly she also  
5 accepted that head office had insisted in 2008 that you  
6 go on to the payroll.  
7 A. Fine, if that's what she said, then that's what she  
8 said.  
9 Q. She would have told you that, wouldn't she?  
10 A. No, Mr Weller and Dr Poulsen came to me and said that  
11 Specsavers wanted me to go on the payroll and that they  
12 had been asked to discuss it with me.  
13 Q. Why did it take so long to put you on the payroll?  
14 A. Because I wasn't prepared to go on the payroll at that  
15 time.  
16 Q. Okay but --  
17 A. It was my decision not to go on the payroll, it wasn't  
18 anything to do with them. I didn't want to be --  
19 Q. It was something to do with them, wasn't it? If they  
20 had agreed not to stop using the company, if they wanted  
21 to use your services, what was made clear here, wasn't  
22 it, was that if you were going to provided any services  
23 to the company, they should be done so as an employee or  
24 not at all, that's what this means?  
25 A. I don't accept that that was what the situation was.

1 Q. You say that the decision to put you onto the payroll  
2 was motivated by a desire to get you within the purview  
3 of their disciplinary powers; is that right?  
4 A. Yes, I do believe that that's what it was.  
5 Q. Mr Rowe's position is that he was suggesting that if you  
6 were going to complete a significant amount of work for  
7 the store each week, it was more appropriate for you to  
8 be employed rather than rendering invoices, that's  
9 nothing to do with discipline at all, is it?  
10 A. No ... no.  
11 Q. You don't accept that the sense of that letter is that  
12 you should stop providing services through a company but  
13 do so as an employee; is that right?  
14 A. No, I don't accept that, because as I understood it when  
15 Dr Poulsen and Mr Weller spoke to me after the meeting  
16 said that's what Specsavers desire and I said to them it  
17 wasn't suitable for me to do that at that particular  
18 moment in time. And also that I wasn't prepared to come  
19 under their control in view of what I had seen they were  
20 doing to other stores.  
21 Q. You did stop invoicing with Optimisation, didn't you?  
22 A. I did.  
23 Q. But you just changed to invoicing through Finestone  
24 Financial Services Limited instead?  
25 A. I did that, yes.

1 Q. If it was agreed that you should stop using Optimisation  
2 Healthcare, why was it appropriate to use Finestone  
3 instead?  
4 A. Because Finestone Finance didn't have any relationship  
5 to my wife at all, so I did not want any accusation that  
6 my wife was involved in the company.  
7 Q. Finestone continued to levy charges in the same way; is  
8 that right?  
9 A. I believe so, yes.  
10 Q. Could we pick up E7 again, please, the schedule at 1763.  
11 These are the Finestone figures. Do you see that?  
12 A. Once again, as I say, I've only just received these,  
13 so --  
14 Q. Okay. It's just doing some arithmetic. Between  
15 31 March 2008 and 12 June 2009, Bognor paid Finestone  
16 £40,919. Do you see that?  
17 A. I can't comment on that without seeing my own records.  
18 Q. Will you take it from me that that, the spreadsheet at  
19 least, adds up to 40,919? Okay, even if you won't,  
20 let's go to the accounts in E3, for Finestone, E3/688-1.  
21 These are the accounts for the year ended 2009, but  
22 they have also got the comparable figures for 2008.  
23 Could you turn through to 68 -- just for your Lordship's  
24 note, the earlier accounts, if you need them, are at E3  
25 at 552, for the transcript.

1 If you go through to 688-4, let's look at the 2008  
 2 figures firstly. 21,255 turnover. The invoices on the  
 3 schedule for that period, which is in fact not -- they  
 4 were not invoicing through the whole year but only from  
 5 31 March 2008, ending on 31 October, that was some  
 6 £19,602.12 invoiced to Bognor?  
 7 A. Mm.  
 8 Q. So that's 92 per cent of the turnover of this company  
 9 for the year, even though it's only seven months;  
 10 correct?  
 11 A. Yeah.  
 12 Q. Then if you look at the 2009 figures, turnover of  
 13 23,514?  
 14 A. Mm.  
 15 Q. The invoices which Finestone rendered between 1 November  
 16 and 12 June was £21,316.90?  
 17 A. Yes.  
 18 Q. So that's 90 per cent of the turnover in a seven and  
 19 a half month period?  
 20 A. Yes.  
 21 Q. So the position we have is that 97 per cent of  
 22 Optimisation's turnover, and over 90 per cent of  
 23 Finestone's turnover in those two years is income from  
 24 Bognor; correct?  
 25 A. Correct, so it seems.

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1 Q. These companies were not doing anything else other than  
 2 stripping money out of Bognor, with no significant  
 3 business of their own other than that?  
 4 A. You keep on making the point that they were stripping  
 5 money out of Bognor. That is quite a serious type of  
 6 accusation.  
 7 Q. Could you answer the accusation?  
 8 A. No, they weren't stripping money out of Bognor. The  
 9 answer is they were not stripping money out of Bognor.  
 10 Q. You can put E7 away and let's go to E1 to look at some  
 11 of the invoices.  
 12 A. Which one do you want me to go to?  
 13 Q. E1, please, page 154 --  
 14 A. Can I put all these away now?  
 15 Q. You can put E7 away. Keep your witness statement open.  
 16 A. E3?  
 17 Q. Yes, I think you can put that away as well.  
 18 A. E1.  
 19 Q. Yes, E1. If you can turn through to 154-44, this is one  
 20 of the Finestone invoices. Do you see that? You may  
 21 have to turn the page, sorry. Just let me know when you  
 22 have got there.  
 23 (Pause)  
 24 A. It's a shrunken --  
 25 Q. It's a shrunken invoice. You see at the bottom of the

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1 page, that includes levying a 5 per cent surcharge?  
 2 A. Correct.  
 3 Q. If it's not paid within ten days?  
 4 A. That's correct.  
 5 Q. That's quite a short period of time for payment, isn't  
 6 it?  
 7 A. Well, in fact the levy was only raised one month and ten  
 8 days later, because at the time we were having a lot of  
 9 trouble getting paid, Specsavers paying its bills.  
 10 Q. You haven't answered my question. I said that's quite  
 11 a short period for payment, ten days?  
 12 A. Yes. Yes.  
 13 Q. Did any of Bognor's other suppliers require payment in  
 14 such a short period of time?  
 15 A. I think there were quite a few that required payment  
 16 within seven days or ten days or 14 days.  
 17 Q. Did they impose 5 per cent surcharges?  
 18 A. I think that a number of them used to say that if you  
 19 paid within that period of time you would take  
 20 a surcharge off it, so they did it the other way round.  
 21 Q. What sort of surcharge?  
 22 A. If I remember correctly, I think it was Ciba Vision had  
 23 a 5 per cent surcharge that you could deduct. There  
 24 were a number of ones like that. I think that  
 25 Ciba Vision was certainly one of those suppliers that

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1 had a surcharge situation on it.  
 2 Q. What?  
 3 A. I can't remember offhand now.  
 4 Q. I see. The first invoice is on 31 March and they run  
 5 through to 12 June. They are the same sort of  
 6 consultancy services that Optimisation was invoicing;  
 7 correct?  
 8 A. Yes, yes.  
 9 Q. Why shift from one company to another?  
 10 A. I think I just explained that to you five minutes ago,  
 11 that the reason we shifted from one company to another,  
 12 so I shifted to a company that Dr Poulsen was not  
 13 involved with, so that Specsavers couldn't make its  
 14 accusations that you are trying to make now.  
 15 Q. The issue which he was discussing was about the  
 16 provision of your services. His concern wasn't about  
 17 your wife's interest, was it?  
 18 A. Yes, my services.  
 19 Q. So if the concern which he expressed was about the  
 20 provision of your services other than as an employee,  
 21 how does that get dealt with by shifting from one  
 22 company to another?  
 23 A. The concern wasn't just of the provision of my services,  
 24 the concern was my wife's involvement in the provision  
 25 of my services.

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1 Q. We have looked at that letter, with the action list.  
2 That's concerned about suggesting that if you were going  
3 to be providing services that you should come on to the  
4 payroll. It's about you, isn't it?  
5 A. And that is to get me under their control, as we have  
6 said.  
7 Q. Sorry, you have not answered my question. The issue is  
8 about you, it's not about your wife, her interest in the  
9 company, is it?  
10 A. I don't understand what you are talking about. The  
11 issue was about my wife's interest in the company.  
12 Because they came along and they accused my wife of  
13 trying to steal money from Mr Weller, as though he knew  
14 nothing about the fees that were being charged by me.  
15 So the issue was very much involving my wife.  
16 Q. Can we have a look at authorisation? Could you turn to  
17 E1/154-35? Do you see that?  
18 A. (Pause) Yes.  
19 Q. This was an invoice we looked at on Tuesday during  
20 re-examination, and your wife, we looked at who  
21 authorised it, and there is a line -- it may be under,  
22 I think, perhaps through Mr Weller. She suggested that  
23 perhaps it might have been Mr Weller's signature on this  
24 document in re-examination.  
25 Can you look on the next page where you can see

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1 where Mr Weller has signed one because you see in fact  
2 it's circled, his name, and then there is a signature?  
3 It is nothing like the one on 154-35.  
4 A. No, it's not, is it?  
5 Q. Your wife said the signature wasn't hers, and it's  
6 obvious it's not Mr Weller's. Is it yours?  
7 A. It could well be. Because we used to sit at the table  
8 together, on the previous invoices, and one of us used  
9 to sign them, pp.  
10 Q. The line is through, if it was something that he was  
11 signing, he circles his name, it looks at if there is  
12 a line through Weller and this is a representation that  
13 this is your wife approving this document, isn't it?  
14 A. I don't think so, no.  
15 Q. Well, it's a stamp which has your wife's name on, but  
16 it's your signature, not your wife's?  
17 A. As I say, we would have sat at a meeting together and  
18 I would probably have signed it --  
19 Q. If they were --  
20 A. And the line underneath might be part of the signature,  
21 it's certainly not crossing out Mr Weller, is it?  
22 Q. If you were present at the meeting where this was  
23 authorised, why didn't they just sign it?  
24 A. Because I probably had the invoices sitting in front of  
25 me and that was probably one of many invoices at that

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1 particular day.  
2 Q. Hang on, sorry, this is a statement saying "Specsavers  
3 Bognor Regis Counterproof of Payment" and it has two  
4 names and you know that invoices have to be approved by  
5 the directors, don't you?  
6 A. By the directors or manager, or somebody appointed by  
7 the directors.  
8 Q. Okay, this is not --  
9 MR JUSTICE HILDYARD: Sorry to interrupt. You must try and  
10 let each other finish, because there is a great deal of  
11 overspeaking, you are each talking quite quickly, and  
12 it's becoming a little muddled, I think.  
13 MR POTTS: My Lord, I'll slow down.  
14 This is a stamp saying there is a counterproof of  
15 payment and there are two options as to who it can be  
16 approved by: either your wife or Mr Weller according to  
17 the stamp; correct?  
18 A. Well, it could have been PPed as well.  
19 Q. It's not PPed, though, is it?  
20 A. No, well, no, it doesn't look like it.  
21 Q. If your wife was present at the time when this was  
22 authorised, she could have simply signed it, couldn't  
23 she?  
24 A. Once again, Mr Potts, you didn't quite listen to me.  
25 I said that when we signed, you don't think that this

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1 was the only invoice sitting on the desk at the time?  
2 We would have had a pile of invoices, maybe 20 or 30  
3 invoices that were being approved, and if you went  
4 through the 20 or 30 invoices you will probably find  
5 that it would have been my signature on all of them,  
6 because Mr Weller and Dr Poulsen were sitting at the  
7 meeting, and they gave me authority to sign.  
8 Q. Okay, let's go back to the previous page, for example,  
9 154-35, where there is a line clearly through  
10 Mr Weller's name.  
11 A. No, there is no line -- oh yes, that one, yes.  
12 Q. There is. So that's representing that it's your wife.  
13 That's not her signature either, is it?  
14 A. Well, I mean, the lines as you can see seem to be under  
15 the signature, so I would say that the line is not  
16 crossing out Mr Weller's name, it's a signature with  
17 a line under it.  
18 Q. Is that your position in relation to 154-35 as well?  
19 A. Well, that's what I would think, yes, because if you go  
20 through all of them here that you are talking about,  
21 specifically when it's Mr Weller, it's circled.  
22 Q. Some are circled, and there is then also some crossing  
23 out. Let's look at 154-29. You are not saying that  
24 that line is part of the signature, are you?  
25 A. No, I think that that is Dr Poulsen's signature, that

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1 particular one.  
 2 Q. Ah, I see. The point is that on the authorisation you  
 3 are meant to identify which are the two directors, don't  
 4 you, so you have to make some effort to identify which  
 5 of the two is doing the authorisation?  
 6 A. I don't think that that was the case. I mean, I know  
 7 that a lot of stores, the directors had nothing to do  
 8 with signing the bills at all. The stamp was on it with  
 9 their names on it, and it would have been a manager or  
 10 somebody down the line that signed it.  
 11 Q. Can we go back to 154-17? That's your signature as  
 12 well, isn't it?  
 13 A. (Pause). Yes, it could be.  
 14 Q. Yes. In fact you weren't a manager at the time either,  
 15 were you? You weren't an employee of this company?  
 16 A. No. I was appointed by them to organise the bills.  
 17 Q. I see. But this is not the signature, is it? The line  
 18 is through Barry Weller, and you have signed it;  
 19 correct?  
 20 A. Yes. Unfortunately my wife's signature and mine are  
 21 fairly similar, she does a squiggle as well.  
 22 Q. I am not sure I accept that, but in any event this is  
 23 something you are doing. So you are signing off,  
 24 consulting, you are signing off your own bills. You  
 25 think that's an arm's-length arrangement?

1 A. It is arm's-length in that we sat together and approved  
 2 these bills, Mr Potts. I didn't take the bill myself  
 3 and sign it off and send it away and they did not know  
 4 about it. We sat at meetings regularly to sign the  
 5 bills.  
 6 Q. Sorry, but if they were sitting at the meeting, so they  
 7 are physically there, it would not have been difficult  
 8 for them to just sign it, which is what's the  
 9 representation here?  
 10 A. As I said to you, there would have been 20 to 30 bills  
 11 to sign at each meeting.  
 12 Q. You are suggesting that that's consistent with there  
 13 being no special relationship, is there, with the  
 14 suppliers of goods and services?  
 15 A. I don't see how one equates with the other.  
 16 Q. Well, this is a pretty special relationship, you render  
 17 a bill and you approve it yourself?  
 18 A. No, I don't approve it myself, Mr Potts, I signed the  
 19 bill as approved after discussing it with Mr Weller and  
 20 Dr Poulsen. There is a very big difference between  
 21 taking the bill and approving it myself, and Dr Poulsen  
 22 and Mr Weller sitting with me and saying "Yes, we  
 23 approve that bill, you can sign it".  
 24 Q. If you were one for formalities and getting things just  
 25 so, because of this relationship, this doesn't suggest

1 a great deal of formality, does it?  
 2 A. It does suggest formality because we used to sit down at  
 3 a meeting together and approve these bills for payment.  
 4 So yes, there was formality in it.  
 5 Q. Sorry, if there was formality you would have got the  
 6 person whose signature is stated to be on the document  
 7 to actually sign it, wouldn't you? It's not that  
 8 difficult.  
 9 A. Not that necessary, no.  
 10 MR POTTS: My Lord, I don't know if that might be a moment  
 11 for the transcribers?  
 12 MR JUSTICE HILDYARD: Yes, we will adjourn for 10 minutes.  
 13 At some point, though not necessarily now, Mr Potts,  
 14 I will want to know whether these documents were  
 15 documents which were taken into account in the  
 16 investigation, bearing in mind the submissions you first  
 17 made to me.  
 18 (11.28 am)  
 19 (A short break)  
 20 (11.38 am)  
 21 MR POTTS: Mr Vos, can we move on to paragraph 101 of your  
 22 statement, where you refer to the board meeting which  
 23 was initially proposed to take place in March 2009. Do  
 24 you see that?  
 25 A. Paragraph?

1 Q. 101.  
 2 A. Yes.  
 3 Q. You say that SOG was forced to back down when your wife  
 4 and Mr Weller sought to add items to the agenda; yes?  
 5 A. (Pause) Yes.  
 6 Q. If you could turn up volume E2, please, and what do you  
 7 have open there?  
 8 A. E1.  
 9 Q. Keep that. E2, page 441.  
 10 A. (Pause) I have it.  
 11 Q. This is an email from Ms Del Grazia proposing that the  
 12 meeting should be less formal. Do you see that?  
 13 A. Yes.  
 14 Q. It's making clear that the objective is to find  
 15 a resolution to the dispute and to clear up  
 16 misunderstandings?  
 17 A. Yes.  
 18 Q. It also says on the third paragraph down that:  
 19 "In this forum you can discuss the other concerns  
 20 that you have."  
 21 A. Yes.  
 22 Q. So it was making clear that you could discuss anything  
 23 you wanted to, wasn't it?  
 24 A. Yes.  
 25 Q. But you don't accept that explanation?

1 A. No.  
 2 Q. Because you say it was because SOG backed down over  
 3 this?  
 4 A. Well, I mean, obviously this email would have been  
 5 couched in such terms, particularly as some of the  
 6 subjects that Dr Poulsen and Mr Weller wanted to put on  
 7 the agenda were quite important, controversial sort of  
 8 agenda items. For example, my Lord, they wanted to  
 9 know, at that particular time, the whole banking crisis  
 10 had occurred and, if you remember, the Icelandic banks,  
 11 the major drama with the Icelandic bank, my Lord, and  
 12 Dr Poulsen and Mr Weller and I for that matter were very  
 13 concerned as to where the store funds were kept, because  
 14 the store funds are all paid, as of all the stores --  
 15 the £1.5 billion, £1.6 billion that Specsavers receives  
 16 gets paid into the store's income gets paid into  
 17 an account on Guernsey called Specsavers Finance Limited  
 18 Guernsey, which is effectively a bank account, and  
 19 the -- unlike other banks where you are able to -- which  
 20 are controlled, at that time would have been controlled  
 21 by the Financial Services Authority and currently by the  
 22 Financial Conduct Authority, there is transparency as to  
 23 how these funds are used. One of the questions we were  
 24 asking was: as Specsavers Finance (Guernsey) Limited was  
 25 not registered with either the Guernsey Financial

1 Services Commission, the Financial Services Authority in  
 2 the company or any other banking authority in the  
 3 United Kingdom, and they were churning through all these  
 4 billions of pounds, we were concerned as to just how  
 5 safe the Bognor Regis store funds were, and that if  
 6 anything went wrong with that particular company, as  
 7 this was the store's major asset, whether -- it would  
 8 obviously put the company out of business, and therefore  
 9 was a risk for Dr Poulsen and Mr Weller.

10 One of Specsavers' arguments is that they don't need  
 11 to register with the Financial Conduct Authority, with  
 12 the Financial Services Authority, because it's a group  
 13 treasury company. And the other thing we were concerned  
 14 about was that, at the end of each month, when the  
 15 bottom line statements were produced, the bank account  
 16 balance in the -- it was called a bank account balance  
 17 in the bottom line accounts, my Lord -- didn't coincide  
 18 with what was on the bank statements that were sent to  
 19 us by Specsavers Finance (Guernsey).

20 What we discovered was that all Specsavers' charges  
 21 for the month, and that would have been about £50,000 or  
 22 £60,000, my Lord, a month was only invoiced by  
 23 Specsavers at the 10th of the following month. That is  
 24 what the difference between the bank statements and the  
 25 bottom line accounts were, because Specsavers would take

1 the amounts that they only got paid on the 10th of the  
 2 following month away from the bank balance in the  
 3 company, making the company's bank balance look less  
 4 than it actually was, when in fact those amounts,  
 5 because they were only paid ten days later were sundry  
 6 creditors and should have been reflected in the accounts  
 7 as sundry creditors. So these were the sort of  
 8 questions that Dr Poulsen and Mr Weller wanted to raise  
 9 with Mr Dyson, amongst -- a better explanation of the  
 10 VAT situation. And those questions or those items to be  
 11 put on the agenda, my Lord, is what we believe caused  
 12 Mr Dyson to rather have an informal meeting so that he  
 13 didn't have to address these subjects. As I understand  
 14 it, I mean, Mr Potts didn't ask Dr Poulsen the question  
 15 yesterday, but as I understand it from what was reported  
 16 back to me from Dr Poulsen and Mr Weller, was that when  
 17 they asked Mr Dyson about this at the meeting, he said  
 18 he didn't know either but he would ask Mr Perkins, and  
 19 Mr Perkins had assured him that there was no problem and  
 20 that they hadn't invested in the Icelandic banks,  
 21 et cetera, but no proper explanation was never received.

22 Q. The question I actually asked you was not what were the  
 23 issues of concern but the point was it was made clear  
 24 that they could discuss the other issues of concern, and  
 25 indeed your wife accepted in cross-examination that

1 Mr Dyson wasn't in fact trying to shut her up from  
 2 anything she liked. Do you accept that as well, or you  
 3 don't?

4 A. I accept that yes, he agreed he would discuss it but he  
 5 didn't discuss it adequately or properly.

6 Q. You have also just said that there was a discussion  
 7 about it at the meeting?

8 A. What I said was that the discussion was that he said  
 9 that he himself didn't know about it and he had  
 10 Mr John Perkins whether the money was safely held, and  
 11 he was told that there was, and he expected that  
 12 Dr Poulsen and Mr Weller should be satisfied with that  
 13 explanation.

14 Q. Mr Dyson's position, he is trying to find an amicable  
 15 way forward to resolve the issues over mystery shopper  
 16 and didn't think that a formal setting would be very  
 17 conducive to that; you don't accept that?

18 A. I believe that they had intended to use the board  
 19 meeting to possibly remove Dr Poulsen and Mr Weller, and  
 20 that the additional questions that were asked made them  
 21 back off. Because even as you will see from  
 22 disclosures, even up to that time, they were talking  
 23 about "we must find a way to wipe this woman off the  
 24 face of the earth", in their internal emails.

25 Q. Are you saying Mr Dyson said that?

1 A. No, I think that was said by Mrs Susannah Hart, who was  
2 the Communication Manager in Guernsey.  
3 Q. If we turn to E2/450. These are some notes which your  
4 wife's witness statement said were prepared by her, but  
5 we understand you were involved with in their  
6 preparation; is that right?  
7 A. My wife -- the answer to that, my Lord, is that my wife  
8 is, being a doctor, very, very careful to make notes of  
9 absolutely everything she does, even if she sees  
10 a patient she makes lots of notes on a -- it's basically  
11 on a little -- she uses one of these spiral pads she  
12 makes her notes on, and when she comes back from  
13 anywhere, she normally sits down and wants it recorded  
14 for posterity.  
15 So yes, she came back, and basically dictated these  
16 notes to me, and I obviously put them into --  
17 Q. You are saying there were some notes taken at the time  
18 in the meeting; is that right?  
19 A. No, I believe she took some notes after the meeting as  
20 to what she remembered, and then we put them on here.  
21 Q. So she took some notes, so there was another document,  
22 was there?  
23 A. Well, there was at the time, yes.  
24 Q. I see, but it's not been disclosed?  
25 A. Well, she didn't keep it, obviously, that's two, three

1 years ago.  
2 Q. I see, and when did you prepare this document?  
3 A. It would have been the evening of the Gatwick Hilton  
4 meeting, because I know that she was extremely upset  
5 when she got back, and wanted to put it on record.  
6 Q. You see, Specsavers' solicitors requested on 20 March of  
7 this year a copy of this document in native form with  
8 the metadata. I don't think we need to turn up that  
9 one, but for the note it's F1, page 151. The response  
10 was at 199 in F1, if you could have that, please.  
11 A. (Pause) Yeah.  
12 Q. The document at 157, the response was that the document  
13 was routinely deleted. Who deleted it?  
14 A. Well, as it was on my computer, I would have deleted it  
15 after a time.  
16 Q. You seem to have thought this document was important,  
17 hence having kept a copy of it, a hard copy since  
18 March 2009, but you were happy to delete it off your  
19 computer; is that right?  
20 A. Well, as we had a hard copy of the document, my Lord,  
21 there was no necessity to keep it on a computer as well,  
22 we had hundreds and hundreds and hundreds of documents  
23 on it, and was getting fairly clogged up, and does get  
24 clogged up, and as you probably know yourself, the more  
25 documents you put on a computer, the slower they

1 operate. So yes, it would have been routinely deleted,  
2 as would many other documents have been routinely  
3 deleted. I think around about that time I actually had  
4 a hard drive failure on one of my computers, my Lord,  
5 which I had to try and recover as many documents as  
6 I could, and basically get a new computer.  
7 Q. I put it to you that this document was at least amended  
8 after that meeting in order to create a paper trail  
9 against my client and to misrepresent what was said at  
10 the meeting?  
11 A. To what?  
12 Q. To misrepresent what was said at the meeting, to fit  
13 with your present case.  
14 A. I think you are getting a bit fanciful now, Mr Potts.  
15 No, that's not true.  
16 Q. You can put F1 away.  
17 A. Sorry?  
18 Q. F1 can go away. If we could go back to your witness  
19 statement, please, paragraph 106.  
20 A. Yes, sir.  
21 Q. You refer there to Ms Laker's complaint against  
22 Mr Weller, in that paragraph. Do you see that?  
23 A. Could I just read it?  
24 Q. Yes, of course.  
25 A. 106 you want me to read?

1 Q. 106, just read it to yourself, maybe.  
2 (Pause)  
3 A. Okay, yes.  
4 Q. You suggest -- the allegation in fact was against  
5 Mr Weller -- that the grievance was actually raised on  
6 6 April 2009; is that right? You refer to it in  
7 paragraph --  
8 A. If you say so, yes.  
9 Q. Now, you say the finding against Mr Weller led to his  
10 nervous breakdown and the recurrence of his Non Hodgkins  
11 lymphoma, in that paragraph; correct?  
12 A. Yes, it would have been one of the contributory factors.  
13 Q. Let's deal with the lymphoma. Mr Weller's evidence is  
14 that he noticed a lump on his neck in April 2009, and  
15 I think he carried on working after that; correct?  
16 Well, I'll tell you that's his evidence. The grievance  
17 wasn't raised until 6 April, and the findings weren't  
18 until July, were they?  
19 A. No.  
20 Q. When you say that the findings led to the recurrence of  
21 this, that's not correct because he discovered the lump  
22 in fact three months earlier?  
23 A. You are quite right, yes, so that is inaccurate and  
24 I acknowledge that, I have obviously put it in a wrong  
25 way, yes.

1 Q. As to the suggestion that he has had a nervous breakdown  
2 as a result of the findings, Mr Weller doesn't refer to  
3 a nervous breakdown in either of his witness statements  
4 or his interview, does he?  
5 A. Well, he certainly had a nervous breakdown.  
6 Q. Could you just answer my question: he doesn't refer to  
7 having had --  
8 A. I don't know what he refers to in his witness statement  
9 or in his interview.  
10 Q. I put it to you he doesn't.  
11 A. Well --  
12 Q. He continued to work through this whole period, apart  
13 from two to three weeks off in March 2010 after his  
14 operation, didn't he?  
15 A. No 2010 he had his operation, yes, it was nearly a year  
16 after this.  
17 Q. That's right, and he continued to work through that  
18 period, the intervening period?  
19 A. In between?  
20 Q. Yes.  
21 A. Yes.  
22 Q. At paragraph 116, you say that Specsavers had approved  
23 your appointment, your salary, your bonuses and your  
24 overtime payments; correct?  
25 A. What number is that?

1 Q. Paragraph 116.  
2 A. My 116 says:  
3 "For all these reasons, there could be no doubt that  
4 Specsavers approved my appointment, salary, bonuses and  
5 overtime payments."  
6 Q. That's right, so the answer to that is: yes, that is  
7 your position?  
8 A. Yes.  
9 Q. Ms Mancini in her witness statement says SOG doesn't use  
10 the payroll system to monitor how companies are spending  
11 money, there are 700 stores, and in fact contracts for  
12 employment are signed by the A directors, aren't they?  
13 A. Contracts of employment are signed by them, yes.  
14 Q. And her evidence is that SOG relies on the honesty of  
15 joint venture partners on issues such as ensuring that  
16 staff are paid for the hours that they actually work; do  
17 you accept that?  
18 A. That may well be her evidence, but the fact of the  
19 matter is that all new employees have to be --  
20 previously, my Lord, there used to be a system where you  
21 had to submit a document to Specsavers in Guernsey  
22 giving them information on new employees that were going  
23 to be -- you wanted to put on or -- employ or put on the  
24 register. They then submitted a document back to you  
25 saying that that was all in order and they had been put

1 on the payroll. They then went on to a computerised  
2 system, which I think was called, if I remember  
3 correctly, Self-service Employment System, on the  
4 computer, and you were required to complete a document  
5 on the self-service system which gave all the details of  
6 the employee, his salary, or her salary, the terms and  
7 conditions of the employment, et cetera, and you sent  
8 this down the line to Guernsey, and approximately two  
9 weeks later you would get a response on the system  
10 saying that that person had been approved.  
11 Q. SOG just processes the requests for payment, doesn't it?  
12 I mean, a payroll clerk in Guernsey has no way of  
13 knowing what hours an employee is actually working in  
14 the store, does he?  
15 A. A payroll clerk receives that information in Guernsey,  
16 because the -- first of all, the application you put in  
17 to them has to give the number of hours that the person  
18 is going to work, the -- obviously the pay rate, their  
19 address, their National Insurance number, the terms of  
20 their employment. So yes, a payroll clerk would receive  
21 it, but besides the fact that I think the payroll clerk  
22 should talk about it -- a little bit more senior than  
23 that, because I think the lady's name was Sadie in  
24 Guernsey, I used to speak to quite regularly about  
25 putting new employees on, and after that I think that

1 there was a lady called Margaret I used to deal with,  
2 getting her acknowledgement that these employees have  
3 been put on the system.  
4 Q. Yes, I am talking about on an ongoing basis in terms of  
5 the request for payment of salary and overtime that you  
6 have referred to at 116. On an ongoing basis they have  
7 no idea how much hours or overtime is actually being  
8 worked because they are not in the store, are they?  
9 A. Well, they receive an application, as it were, there is  
10 a document that you have to complete which has the  
11 person's name next to it, it's got what their salary is,  
12 it's got a column for overtime, so overtime at normal  
13 rates, overtime at time and a half, any bonuses you want  
14 to pay them, any sick leave that they have had,  
15 et cetera, which we had to put in on the system. Now,  
16 things like sick leave, we would have to send Guernsey  
17 the actual sick certificate. Until in recent years it  
18 became self-certification, so that the employee had to  
19 self-certify what their illness had been. So we had to  
20 send these documents to Guernsey, and this main document  
21 would go to Guernsey for approval, and it wouldn't be  
22 approved immediately, it would take two -- I think it  
23 was initially the 6th or the 7th of the month, we had to  
24 have it on the system by, and then by I think it was  
25 about the 18th or the 19th of the month they would send

1 us confirmation that it was on the system. Then later  
 2 as it got more efficient I think it was by the 13th that  
 3 we had to have this information on.  
 4 So, yes, they did receive all this information,  
 5 Mr Potts, and if they had any queries they used to phone  
 6 up and say "What's this about?" Et cetera, et cetera.  
 7 So these little clerks you are talking about were  
 8 actually more senior than that, and they did check this  
 9 information.  
 10 Q. They are not in the stores, they don't know how many  
 11 hours someone is actually working, do they? That's the  
 12 point I'm making.  
 13 A. No, but if they thought it was unreasonable they would  
 14 come back to us and say "this is unreasonable".  
 15 Q. Are they relying on the honesty of joint venture  
 16 partners to ensure that staff are being paid for the  
 17 hours they actually work?  
 18 A. Yes, as they should.  
 19 Q. In terms of authorisation, could you pick up E4, please,  
 20 at page 940.  
 21 A. Can I put some of these back again? The table is  
 22 getting a little bit full. I take it you want me to  
 23 keep the witness statement.  
 24 Q. Yes, put the other ones away, keep E4 open and your  
 25 witness statement. Just to see the context, this is

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1 a letter at 939 to Mr McAlindon on 5 June 2011. I think  
 2 it's a letter that was written by you, wasn't it? You  
 3 see at 940 the use of the speech marks?  
 4 A. Yes, it was written by the three of us, we sat together  
 5 on it.  
 6 Q. If you look at the bottom of 940, final paragraph, about  
 7 the reference to unusual transactions, there is  
 8 a reference to your own internal audit:  
 9 "We can find no unusual transactions."  
 10 A. Sorry, this is the bottom of 940?  
 11 Q. Yes.  
 12 A. Yes.  
 13 Q. "We as store directors and in the running of the  
 14 business are responsible for and which we authorise in  
 15 terms of transactions. We have checked all payments are  
 16 authorised to suppliers for which we are responsible.  
 17 Salaries, bonuses and overtime payments, sick  
 18 deductions, set payments, eBis claims, et cetera, which  
 19 we had a clear audit, and we cannot find any  
 20 transactions or any transaction for which we are  
 21 responsible and have authorised and which have not been  
 22 incurred strictly in the business and properly  
 23 authorised."  
 24 So it's the store directors who authorised the  
 25 payment of overtime, for example, isn't it?

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1 A. The store directors do the initial authorisation, yes.  
 2 Q. And SOG then pays it?  
 3 A. And SOG checks it and then pays it.  
 4 Q. They are not in a position to know how many hours  
 5 somebody had worked in a store, they are not there?  
 6 A. Well, they are in a position to check to see if it's  
 7 unreasonable. If somebody was putting in, for example,  
 8 400 hours a month overtime then obviously they would  
 9 query it. So yes, they do look at it, Mr Potts.  
 10 Q. The impression given here in 940 is that what is being  
 11 said is, "Look, this is our job, we have checked this,  
 12 and there is nothing unusual", that's four directors.  
 13 A. From what we had checked, from our side, we could find  
 14 nothing unusual.  
 15 Q. We can put E4 away. If you go back to paragraph 135 in  
 16 your statement, please. Paragraph 135 you say:  
 17 "The plan was falsely to accuse us of dishonestly  
 18 relying on its previously discarded concerns about the  
 19 level of your remuneration and to block the agreed share  
 20 transfer between [that's Mr Weller and Mr Yogaratham] by  
 21 use of false pretences."  
 22 Correct?  
 23 A. That's correct.  
 24 Q. The first point is: SOG's consent was required, wasn't  
 25 it, for such a transfer? So in terms of the agreed

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1 transfer, SOG had to give its consent; correct?  
 2 A. What, to transfer of shares?  
 3 Q. Yes.  
 4 A. Yes.  
 5 Q. And it hadn't given such consent, had it?  
 6 A. No.  
 7 Q. In relation to the plan to block the sale, why do you  
 8 say that SOG would do this?  
 9 A. Well, there was absolutely no reason why Mr Yogaratham  
 10 should not be approved as a director or an A  
 11 shareholder, he had passed the Specsavers stage 1  
 12 approved for director, he had complied with everything,  
 13 he had retail experience, he ran his own store,  
 14 Vision Express, with his wife, he was an optometrist, he  
 15 was also a dispensing optician, which is one of the  
 16 preferred retail type directors that Specsavers like,  
 17 and he had substantial knowledge of the retail side of  
 18 the business. So there was absolutely no reason they  
 19 shouldn't approve him.  
 20 Now, disclosures since, my Lord, in this case, have  
 21 shown that our suspicions at the time were correct, that  
 22 Mr Dyson, for example, made the statement that all that  
 23 Dr Poulsen was interested in doing was getting back the  
 24 money that she had lent Mr Weller to purchase his shares  
 25 in the company. So in other words, she was, as such,

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1 pushing Mr Weller to sell the shares so that she could  
2 get money she had lent him to buy the shares in the  
3 first place. That was clearly wrong because Mr Weller  
4 actually took out a loan with Lloyds Bank to buy the  
5 shares, which I arranged because of my other business  
6 interests, I know quite a lot of the banks and I know  
7 a lot of people in the banks and I actually had  
8 organised quite substantial funding for various people,  
9 so I actually arranged Mr Weller's loan. So that was  
10 incorrect, but that was a malicious, vindictive sort of  
11 thing that Mr Dyson in his disclosures showed that he  
12 was up to.

13 He also showed in there that they would have liked  
14 to get rid of Dr Poulsen. Dr Poulsen had in fact told  
15 Mr Rowe in a meeting that she wanted to leave and go  
16 back into the medical profession anyhow. So we believe  
17 that the accounts was to falsely accuse us of dishonesty  
18 so that they could seize these shares for nothing. In  
19 other stores, my Lord, and we have identified something  
20 like 45 stores including the Boscombe store, the  
21 Worthing store, the Rustington store, the Uckfield store  
22 which you know about in this case, St Albans,  
23 Wandsworth, and in the last couple of weeks the Croydon  
24 store director, Mr Ewer has just been suspended and  
25 about to be kicked out, because what this loss

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1 prevention team normally do is that they call the  
2 directors to the store before they want to get rid of  
3 them and they put pressure on them, threaten that they  
4 are going to report them to the GOC for P11D expenses or  
5 whatever it is, and actually convince the directors that  
6 they should sell their shares at a discounted rate. So  
7 that is what we believe that they wanted to do to us.  
8 So we knew that there was another agenda in this,  
9 Mr Potts.

10 Q. The group had a turnover of about £1.5 billion at the  
11 relevant time. In the scheme of the turnover, this is  
12 not really very much money, is it, Mr Vos?

13 A. I think it's Alan Sugar that said, Mr Potts -- it was  
14 either Alan Sugar or Theo Paphitis said that turnover is  
15 vanity and profit is sanity. So a £1.5 billion turnover  
16 doesn't necessarily mean they are making a £1.5 billion  
17 profit.

18 The other thing you have to remember is that each of  
19 these -- if we have identified 45 stores, and we believe  
20 there is over 200 stores, we believe that at least  
21 25 per cent of the Specsavers stores have had their  
22 directors removed for one reason for another, you are  
23 talking about millions and millions of pounds of clear  
24 profit. So as against their 1.5 billion turnover, of  
25 which they may make 20 per cent, of which they should

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1 have paid probably £100 million in UK taxes, but because  
2 they are offshore they don't, yes, the figures are  
3 substantial if you take them, if you extrapolate them  
4 over all the companies that they are trying to do this  
5 to.

6 Q. You say turnover is vanity. Turnover actually was  
7 important, wasn't it? You say the store was running  
8 well and you had increased the turnover from about  
9 £1 million to £1.5 million; correct?

10 A. Yes.

11 Q. Actually it's the turnover of the store which is the  
12 basis of the management charge for Specsavers, isn't it?

13 A. Yes, it's because Specsavers cream their fee off the  
14 top, don't they, they skim it off the top, and we have  
15 to bear the -- the companies have to bear the losses or  
16 whatever profit is left. So they don't have any concern  
17 whatsoever as to whether the company is making a profit  
18 or a loss, because you could have a £2 million turnover  
19 and make a £2.1 million loss, but they still get their  
20 6.5 per cent creamed off the top.

21 Q. Fine, but if the turnover was increasing, surely they  
22 would have been happy, because as you say they were  
23 making their income on turnover and if you had increased  
24 turnover, that was good news for them, wasn't it?

25 A. Yes, it is a surprise that after we left and the store

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1 has been run by the loss prevention team, the turnover  
2 dropped £300,000.

3 Q. Can I put it to you that the more likely explanation is  
4 the discussions about the transfer were genuine and  
5 there was a concern about getting the right balance of  
6 joint venture partners?

7 A. I have absolutely no doubt that that was not the case.

8 Q. Furthermore, if SOG wanted your wife and Mr Weller out,  
9 why would they block them selling? You yourself say  
10 that your wife had made it clear that she was looking to  
11 exit?

12 A. Because they wanted to acquire the shares for nothing.

13 Q. I put it to you --

14 A. They were just buying time while their loss prevention  
15 team, which I would equate to the Tonton Macoute, would  
16 go in and find reasons to get rid of them.

17 Q. I put it to you that there was no such conspiracy at  
18 all, there were genuine concerns in relation to the way  
19 in company was being run, and that was what prompted the  
20 investigation?

21 A. I don't agree with that at all, so the answer is no.

22 Q. Let's move on the investigation, at E4, page 950. This  
23 is the letter dated 7 June, which denied that there was  
24 a conspiracy or hidden agenda. You see that at the  
25 second holepunch?

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1 A. Well, I would expect them to say that, Mr Potts.  
2 Q. Yes. Then he refers to audit activities completed as  
3 part of the due diligence identifying some unusual  
4 transactions. Do you see that?  
5 A. Yes, and one of our questions to that was: why would  
6 they be doing due diligence when Mr Yogaratnam had  
7 undertaken his own due diligence as the purchaser,  
8 my Lord, normally the purchaser undertakes due  
9 diligence, not the seller.  
10 Q. There is a reference over the page to this point about  
11 an assertion made that there had been in relation to the  
12 signing off of the accounts on the second paragraph?  
13 A. Sorry, page?  
14 Q. 951. The suggestion is made that the request to meet on  
15 31 May was in some way -- you had refused and that's why  
16 this letter prompted. You suggested that was because of  
17 a letter that you had written about the accounts;  
18 correct?  
19 A. Yes, because I think this arrived sort of about two or  
20 three weeks later after the letter for the accounts.  
21 Q. In fact, as your wife said in evidence, she accepted  
22 that they had in fact approved and signed the accounts?  
23 A. I think she signed the resolution, which I was quite  
24 surprised to hear she had, because I did say to them  
25 I didn't think they should sign the resolution but

1 obviously she had been under pressure from  
2 Mr de Carteret in Guernsey.  
3 Q. The letter sets out two areas to be discussed with you,  
4 payments to you since June 2009 and payments to  
5 Mr Ferguson; correct?  
6 A. That's correct.  
7 Q. Then there is a board meeting was convened?  
8 A. That's correct.  
9 Q. So presumably you obviously discussed this with your  
10 wife at the time and you knew therefore the contents of  
11 this letter; did you see the letter?  
12 A. Yes, I think I probably did. I did see the letter, yes.  
13 But this letter was only sent after my wife and  
14 Mr Weller had refused the invitation of --  
15 Q. A meeting?  
16 A. -- a meeting with Mr McAlindon at a hotel remotely from  
17 the store, so that his loss prevention team could go in  
18 and change the locks and see all the staff which is what  
19 they do in other stores.  
20 Q. Then there was a board meeting on 15 June; is that  
21 right? Your wife didn't attend that meeting?  
22 A. On solicitors' advice she didn't.  
23 Q. And there were resolutions passed in relation to  
24 an investigation. You were suspended by letter on  
25 15 June; correct?

1 A. I think my letter of suspension actually arrived  
2 probably nearly ten days after that.  
3 Q. The letter is dated 15 June, isn't it? It's page 971 at  
4 E4.  
5 A. That's my letter, is it?  
6 Q. Wasn't it hand delivered to you?  
7 A. No.  
8 Q. To your home?  
9 A. No. No. It was posted to me, and it arrived, as  
10 I said, probably ten days after that.  
11 Q. Okay, and then there was an investigation. Could I ask  
12 firstly just a couple of questions about 15 June, what  
13 happened then? You had a meeting with your wife and  
14 Mr Weller with the employees; correct?  
15 A. We did.  
16 Q. Did you discuss in advance what you were going to say?  
17 A. In advance of Mr Weller and Dr Poulsen?  
18 Q. Well, you did quite a lot of the talking at the meeting,  
19 didn't you?  
20 A. Yes.  
21 Q. But there was a discussion as to what you were going to  
22 say, was there?  
23 A. There was, yes.  
24 Q. Was it agreed in advance?  
25 A. It was.

1 Q. Didn't you say --  
2 A. Most of it was agreed in advance, yes.  
3 Q. -- that staff from Guernsey would be coming into the  
4 store?  
5 A. I did.  
6 Q. And you knew that because there was going to be  
7 an investigation and you were going to be suspended?  
8 A. We suspected that that might be the case, my Lord.  
9 Q. Paragraph 159 of your witness statement, you say that  
10 you felt that the staff -- sorry, I think I may have the  
11 wrong reference there. Yes, 161 and 162, you say that  
12 you felt staff needed to know before the suspension, so  
13 you suspected a suspension was coming?  
14 A. Yes.  
15 Q. To know the allegations and the disruption they were  
16 going to be subjected to; correct?  
17 A. Absolutely right.  
18 Q. That's not what you did, actually, during the meeting,  
19 is it? Because what you said was that, "They would push  
20 staff into the corner and give them more money to dish  
21 the dirt"?  
22 A. I didn't say that myself, no.  
23 Q. Who did say that?  
24 A. I believe Mr Weller mentioned that he had been, when he  
25 had been an employee in the Brighton store, that the

1 loss prevention team had gone into the Brighton store  
 2 about directors there at the time, and I can't remember  
 3 the names, he would probably tell you, but I think that  
 4 possibly Mr Lofting was a director at the time, and that  
 5 Specsavers had it in for one of the directors, who they  
 6 suspended, and they had asked Mr -- they had told  
 7 Mr Weller that if he co-operated with them and gave them  
 8 a statement in their favour, he would get various  
 9 promotions, et cetera, to be able to -- so that they  
 10 could get the correct action against the director  
 11 concerned, my Lord.

12 Q. So he was an employee of the Brighton store about  
 13 20 years previously; is that right?

14 A. That's right. Well, I don't know, yes. 20 years  
 15 possibly.

16 Q. I mean, there are two members of staff who referred to  
 17 this, Claire Stewart and Glen Morris, you remember  
 18 seeing their statements, do you?

19 A. Mm.

20 Q. And they don't mention anything about Brighton and they  
 21 also said it was you who said this; is that right?

22 A. That is incorrect, and as far as Mr Glen Morris is  
 23 concerned, Mr Glen Morris saw us in a car park in  
 24 Arundel not that long ago, and we have put in a witness  
 25 statement about it, and he approached us, and we said

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1 "We can't really talk to you, Mr Morris, because you are  
 2 a witness for Specsavers", and he said "I wouldn't be  
 3 a witness for Specsavers", he said "At the investigation  
 4 meetings they put words in our mouths, they threatened  
 5 us, they made us fear for our jobs, so we basically said  
 6 what they wanted us to hear(sic)", and eventually they  
 7 actually got rid of Mr Morris.

8 So most of the staff that they used as their  
 9 evidence, their hearsay evidence, my Lord, they have  
 10 not -- they are not producing any staff so that we can  
 11 cross-examine them, they are just hearsay. Most of  
 12 their staff don't work for Specsavers any more, they  
 13 have been either kicked out or made redundant, or they  
 14 have gone.

15 Q. You give in evidence --

16 A. And Mr Morris is one of them.

17 Q. None of that appears to your witness statements, does  
 18 it?

19 A. In my witness statement about Mr Morris it does appear,  
 20 yes, it is a witness statement either from myself or  
 21 Dr Poulsen that actually addresses Mr Morris' situation.

22 Q. You also said that this was about your refusal to open  
 23 on Sundays; is that right?

24 A. Yes.

25 Q. That was not the reason which was put in the letter at

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1 all, was it, that you had received, the notification to  
 2 you about the issues didn't have anything about Sunday  
 3 trading?

4 A. The letter we -- as we have said all along, Mr Potts,  
 5 which you seem to go around in circles about, is that  
 6 the only reason for Specsavers making these accusations  
 7 against us is because there were various initiatives  
 8 that we weren't prepared to get involved with. One of  
 9 the initiatives was opening on Sundays, my Lord. We had  
 10 worked out that opening on Sundays would actually make  
 11 the company make a loss, of quite a considerable amount,  
 12 because we worked out that we would have to produce at  
 13 least £5,000 or £6,000 turnover just to break even.

14 But because Specsavers skims its 6.5 per cent  
 15 management fee off the top, it wants everybody to open  
 16 on a Sunday, because even if they only do £2,000 on a  
 17 Sunday and the store makes a loss, over 700 stores,  
 18 my Lord, we worked out that they would be receiving  
 19 probably another 6 or 7 million in the 6.5 per cent  
 20 fees, even though the stores would be making a loss.

21 So it was definitely, and Dr Poulsen and Mr Weller  
 22 had been put under a lot of pressure over previous  
 23 months and weeks about opening on Sunday. Now, when you  
 24 get to the next case, my Lord, you will find that the  
 25 same thing applies, and the Uckfield case, it was also

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1 pressure being put on the Uckfield directors to open on  
 2 a Sunday and when they didn't they then started getting  
 3 accused of misappropriating P11D expenses or something.

4 So the story is definitely related to not following  
 5 Specsavers' initiatives, and one of their major  
 6 initiatives is opening on Sunday.

7 So whatever waffle Mr Moore puts in these about what  
 8 I was earning or about whatever anybody else was  
 9 earning, the reality of it is that we were not prepared  
 10 to open on a Sunday, and that was what the final straw  
 11 was.

12 Q. There are a number of issues here: Firstly you are  
 13 saying it's about Sunday trading now; is that right?

14 A. Yes.

15 Q. Then you say it's about not signing the accounts, is  
 16 that right, raising the concern over the accounts?

17 A. Yes, it was an accumulation of things.

18 Q. I see, so all these different things?

19 A. An accumulation of things, going back to the top team  
 20 that we weren't prepared to get involved with, because  
 21 that would also cost the store a lot of money, and then  
 22 the only people we could see benefitting from that was  
 23 once again Specsavers because they were putting into  
 24 place all these insurance policies and medical plans and  
 25 all the rest of it which they were receiving commission

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1 from, from their company Specsavers Insurance Services  
 2 in Guernsey, so we couldn't see what benefit there was  
 3 to the store. So there wasn't a situation where  
 4 Specsavers were interested in whether or not the store  
 5 was making a profit or not, they were interested in what  
 6 they could -- how they could enhance their own income,  
 7 how they could profiteer from the companies,  
 8 effectively.  
 9 Q. Mr Vos, I put it to you that doesn't make any sense.  
 10 There was of course an interest in Specsavers ensuring  
 11 that the businesses were successful and their partners  
 12 were happy. This is a business with a large number of  
 13 partners and if it worked as you said, with Specsavers  
 14 constantly seeking to steal shares of people and having  
 15 no interest in profit, it wouldn't be a successful  
 16 business in the long-term, would it?  
 17 A. Well, Mr Potts, at the Specsavers seminar two weeks ago  
 18 up in Birmingham, the Specsavers directors were most  
 19 concerned that the mood and atmosphere amongst the  
 20 directors of the stores was not -- they were not happy  
 21 that the directors were suspicious of what was going on,  
 22 and they were not happy with Specsavers Optical Group,  
 23 and I've spoken to many Specsavers store directors, who  
 24 have voiced to me that there is an atmosphere of fear  
 25 amongst the store directors, that they will be the next

1 on the list to be removed by Specsavers Optical Group.  
 2 Because, as I've said, when they appropriate the shares  
 3 of the stores, they make a profit because they underpay  
 4 for the shares, they underpay for the shares and the  
 5 average underpayment is approximately £100,000, my Lord.  
 6 They take these shares offshore, and then they sell them  
 7 back onshore. So they don't pay any capital gains tax  
 8 on the sale back onshore.  
 9 Q. Let me go back to what happened on the 15th. I put it  
 10 to you that it was you who made these statements as  
 11 reported by the two members of staff; do you accept  
 12 that?  
 13 A. No.  
 14 Q. And this was an improper attempt by you to influence the  
 15 staff in relation to the investigation, wasn't it?  
 16 A. No.  
 17 Q. You are experienced in relation to employment  
 18 investigations, aren't you?  
 19 A. Yes, I have actually done some disciplinaries myself,  
 20 but I have never ever told staff that they can't talk to  
 21 each other. Specsavers' plan is always that nobody can  
 22 communicate with each other so that they can divide and  
 23 rule and they can tell one person one thing and another  
 24 another. Dr Poulsen and Mr Weller were directors of  
 25 Specsavers, of Bognor Regis Specsavers Limited, as well

1 as being employees of Bognor Regis Vision Plus Limited.  
 2 Q. You weren't, were you?  
 3 A. I was an employee.  
 4 Q. Yes, and you know standard practice in relation to  
 5 employee investigations and suspensions, that employees  
 6 who are suspended are told not to talk to other  
 7 employees during the suspension?  
 8 A. That is not standard practice I have been involved with,  
 9 no.  
 10 Q. You also went on to remind them about a number of listed  
 11 items that Mr Ferguson had apparently done at the store;  
 12 correct?  
 13 A. We told them that the complaints from Specsavers were  
 14 regarding my remuneration and payments made to  
 15 Mr Ferguson. So, yes, we did remind them that  
 16 Mr Ferguson -- some of the staff in fact didn't know his  
 17 name, they just saw this gentleman coming in and out, so  
 18 yes, we did remind them about Mr Ferguson.  
 19 Q. You said "we", this was you, wasn't it?  
 20 A. Well it was us as a group --  
 21 Q. Who was speaking, you?  
 22 A. I was, and I think that Mr Weller and Dr Poulsen may  
 23 have mentioned it as well.  
 24 Q. Let me move on to your contracted hours. You were  
 25 contracted to work 24 hours a week?

1 A. I was.  
 2 Q. On average you were paid an additional 15 hours a week  
 3 in overtime during your employment period?  
 4 A. I was.  
 5 Q. So about 39 hours a week; yes?  
 6 A. If that's what the statistics say, yes.  
 7 Q. Between June 2009 and May 2011 you were paid £139,349?  
 8 A. I thought I saw a figure of £115,000 somewhere but that  
 9 seems to have changed to £139,000.  
 10 Q. That's Mr McAlindon's evidence.  
 11 A. I think that in some evidence somewhere it was £115,000,  
 12 I don't know.  
 13 Q. Mr McAlindon's evidence is that based on his years of  
 14 experience of auditing and investigating stores that's  
 15 a level of remuneration far above normal levels for  
 16 a part-time role?  
 17 A. With all respect, Mr McAlindon is not an accountant and  
 18 Mr McAlindon is considered to be a bully amongst all the  
 19 directors of the stores, so anything Mr McAlindon says,  
 20 I am afraid, I take with very jaundiced view, because  
 21 I was interviewed by Mr McAlindon sitting there with his  
 22 £25,000 gold encrusted watch on threatening me and  
 23 bullying me, to which I did put in a grievance  
 24 complaint, to be interviewed by somebody else who just  
 25 upheld Mr McAlindon's situation, and I put in a further

1 grievance complaint about that to have somebody else.  
 2 Mr David Clark attended that meeting, and Mr David Clark  
 3 was actually shaking because he came to the meeting and  
 4 he didn't know what the meeting was about, effectively.  
 5 So I asked him if he had read the paperwork and he said  
 6 no, and he didn't know what the meeting was about and  
 7 asked me to relay to him what it was about.

8 At the end of the day, all these meetings that go on  
 9 afterwards if you make a complaint end up with the same  
 10 answer, that, "No, no, Mr McAlindon couldn't possibly  
 11 have done anything wrong", whereas other directors  
 12 I have spoken to or other people that have been in this  
 13 situation, my Lord, have told me that Mr McAlindon is  
 14 quite a formidable and very, very nasty, nasty  
 15 individual.

16 Q. Let me ask the question again in a different way.

17 During the year 2010 to May 2011, you received in  
 18 salary, bonus and overtime 74,352; okay?

19 A. I can't tell you. There is -- in your own evidence you  
 20 say 115,000 in that period.

21 Q. Fine. That was far in excess of the amounts received by  
 22 Mr Weller during that period including bonuses was  
 23 £59,195, so you were getting significantly more than the  
 24 full-time joint venture partner of the business;  
 25 correct?

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1 A. Well, I was getting more than the joint venture  
 2 partner, Mr Weller, but so was Ms Scott, who was the  
 3 practice manager, and so was Mr Yogaratnam, who was the  
 4 optometrist, and Mr Yogaratnam was also in fact earning  
 5 more than Dr Poulsen was. So it has nothing to do with  
 6 what you were getting paid in salary, Mr Potts, it's got  
 7 to do with what your value to the business is.

8 Q. I am not talking about salary, I am talking about  
 9 salary, bonuses and overtime, this is the amounts  
 10 received by him including bonuses as a joint venture  
 11 partner?

12 A. Yes.

13 Q. He got £59,000 in the year, you got £74,000 during that  
 14 year.

15 A. Well, I don't accept the £74,000, because I think you  
 16 need to go and check your figures, because one of the  
 17 sets of figures, I can't point to it directly, my Lord,  
 18 was that I had received in that period 115,000, not 139.  
 19 So --

20 Q. And it was significantly higher than Sarah Scott as  
 21 well?

22 A. Not significantly higher, no.

23 Q. Okay, let's move on to your attendance at the store. If  
 24 you could turn up volume C --

25 A. Can I put this E away now?

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1 Q. Let's have a look. Which one do you have?

2 A. I have E4.

3 Q. You can close it but maybe put it to one side. If you  
 4 could turn up tab 3, paragraph 44, this is a summary of  
 5 the evidence collected from various employees in  
 6 relation to your attendance at the store, first. So  
 7 Ms Scott, who was the part-time store manager, she said  
 8 about no more than six to eight hours a week?

9 A. Where are we?

10 Q. 44.1, this is a summary of the evidence. I can take you  
 11 through all of the transcripts, but they are perhaps --

12 A. I am sorry, did you say tab 4?

13 Q. Tab 3, page 63. I am sorry, that may be my mistake.

14 Paragraph 44.1.

15 A. We are looking at Mr McAlindon's statement, are we?

16 Q. Yes.

17 A. Oh, well, that we will take for what it means.

18 Q. I am sorry, I didn't catch that.

19 A. I said that I will take for what it means, yes.

20 Paragraph?

21 Q. Paragraph 44.1. There is a summary here, I just want to  
 22 run through what other people say. Ms Scott, the  
 23 part-time store manager, said no more than six to eight  
 24 hours a week in store?

25 A. Okay.

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1 Q. Gemma Davies, full-time, said no more than six hours  
 2 a week?

3 A. Well, Gemma Davies had worked in the store since the  
 4 beginning of January that year, so January, February,  
 5 March, April, May, June. She had worked there five  
 6 months. So for her to be able to say how many hours  
 7 I had worked in the store over the previous five years  
 8 is quite interesting.

9 Q. Sorry, she is talking obviously about the period of the  
 10 five months that she was there. She is saying that  
 11 during that period, six hours a week.

12 A. Well, she is wrong.

13 Q. She is wrong, okay. Ms Scott is wrong as well, is she?

14 A. Well, Ms Scott started work at 10.30, she was supposed  
 15 to start work at 10 o'clock on a Tuesday -- on  
 16 a Wednesday or Tuesday, depending on how many days she  
 17 worked. She used to get in at approximately 11 o'clock.  
 18 So first of all, for two days of the week she didn't  
 19 know how many hours I worked, and Ms Scott used to leave  
 20 fairly early on a Friday to get away, get back to  
 21 Milton Keynes where she lived.

22 Q. Gemma Davies was full-time, wasn't she, 40 hours a week?

23 A. She was, yes.

24 Q. So she can speak to the whole week, can she?

25 A. She can, but then she was working downstairs on the shop

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1 floor.  
 2 Q. Mr Verrell, full-time 40 hours a week as well, assistant  
 3 manager, he also said about six hours as well?  
 4 A. Yes, it's very interesting they all say six hours, isn't  
 5 it? There is sort of a theme to that, isn't there?  
 6 Q. Bonnie Curtis said about six and three quarter hours?  
 7 A. Bonnie Curtis had started work in the store  
 8 approximately four weeks before the investigation.  
 9 Q. She can speak to those four weeks, can't she?  
 10 A. Well, she can't speak for the four weeks because she was  
 11 silting in a pre-testing room downstairs, my Lord,  
 12 isolated from everyone else because she was pre-testing  
 13 customers who came in, so she wouldn't have known how  
 14 many hours I worked at all.  
 15 Q. Romie Rhoder, full-time?  
 16 A. She was also working in that particular area, so --  
 17 Q. She wouldn't know how many hours you were in store for  
 18 either?  
 19 A. She wouldn't know either, no. It's very interesting,  
 20 Mr Potts, that you haven't brought these people --  
 21 although our solicitors asked for these hearsay  
 22 witnesses to be brought to court to be cross-examined,  
 23 you said it was not necessary, so obviously we would  
 24 like to have cross-examined them so that we could have  
 25 got to the bottom of these, how much they were

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1 pressurising to make these statements.  
 2 Q. You haven't called any of them either?  
 3 A. No.  
 4 Q. You are saying they are all wrong, are you?  
 5 A. I am saying they were told what to say, as I said for  
 6 Mr Morris, who you are going to go to in a couple of  
 7 line's time, Mr Morris is the one who spoke to us, and  
 8 told us that words were put in their mouths and they  
 9 feared for their jobs.  
 10 Q. Then there was also CCTV footage, wasn't there, from the  
 11 1st to 14 June; correct?  
 12 A. Yes.  
 13 Q. That was the only footage available because of the  
 14 amount of availability on the hard drive; correct? That  
 15 was how much was kept?  
 16 A. If you say so, Mr Potts, I don't know, I don't know how  
 17 long the CCTV --  
 18 Q. You were working in the store, weren't you? Didn't you  
 19 have any idea?  
 20 A. Of how long it operated for?  
 21 Q. Yes.  
 22 A. I thought there was a hard drive on it and I thought the  
 23 hard drive kept the information for quite a longer time  
 24 than that.  
 25 Q. That footage indicated that you were in store only for

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1 13 hours and 43 minutes in total during the two week  
 2 period. Is that wrong as well?  
 3 A. That could quite possibly be right, Mr Potts, but the  
 4 contention is not that I had been working in the store  
 5 all the time, is it?  
 6 Q. I am dealing at the moment with your time in the store  
 7 and you have been --  
 8 A. For those two weeks, you have said it so therefore that  
 9 must be the truth.  
 10 Q. So for those two weeks it's consistent with the story  
 11 that all these other members of staff have been giving;  
 12 correct? You say they are all wrong?  
 13 A. For those two weeks were unusual weeks as well, because  
 14 Mr Weller and Dr Poulsen and I had a number of meetings  
 15 away from the store because of the allegations that were  
 16 coming through from Specsavers.  
 17 Q. Your contractual hours during that period would have  
 18 been 48 hours for the two-week period, wouldn't it?  
 19 A. They would have.  
 20 Q. But the footage only indicated 13 hours?  
 21 A. Mr Potts, you keep going back to how much time I worked  
 22 in the store. My contract, my Lord, says: you will work  
 23 in the store and any other location that the directors  
 24 may decide.  
 25 Q. I will come on to that.

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1 A. They keep on going back to the same -- the hours  
 2 I worked in store. We have made it very clear in our  
 3 witness statements, my Lord, that a lot of the work was  
 4 done away from the store.  
 5 MR JUSTICE HILDYARD: I think Mr Potts is probably going to  
 6 come back to that. I think at the moment he is simply  
 7 asking you about your work at the store.  
 8 A. My work at the store, Mr Potts, depended on what was  
 9 necessary to do at the store from time to time and how  
 10 many hours I spent in the store I didn't keep a record  
 11 of, and these records you have here from everybody all  
 12 say something different.  
 13 MR POTTS: The point I'm putting to you, Mr Vos, as you well  
 14 understand, is that the CCTV footage shows around six  
 15 and a half hours odd, and the evidence of the employees  
 16 is consistent with that. You are saying that the  
 17 evidence of the employees is all wrong --  
 18 A. No, what I am saying is if you look at the evidence of  
 19 the employers here, you have one employee saying -- very  
 20 conveniently, all saying more or less the same thing,  
 21 aren't they? Ms Scott says six to eight hours a week.  
 22 Gemma Davies says six hours a week. Alan Verrell says  
 23 six hours a week. Claire Stewart says 12 hours a week.  
 24 Bonnie Curtis says six and three-quarters hours a week.  
 25 So they are all much of a muchness. How could all these

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1 staff who are working all over the place and didn't come  
 2 into contact with me during the course of the day  
 3 because we had an upstairs and a downstairs, and I would  
 4 be upstairs in an office, all suddenly -- Mr Morris says  
 5 16 hours a week. So there is a big discrepancy here,  
 6 isn't there?  
 7 Q. The discrepancy is, you are saying if you like they have  
 8 all been fitted up to say the same thing, in fact they  
 9 don't all say the same thing, do they? Mr Morris says  
 10 it's the same number of hours a day, four hours a day,  
 11 but he says four days a week rather than three. That's  
 12 the only difference?  
 13 A. That's still 16 hours a week as opposed to 6 hours --  
 14 Q. That's the only difference, it is not consistent with  
 15 them all being fitted up to say the same thing. He  
 16 obviously wasn't doing a good job?  
 17 A. Also Mr Morris used to leave at 1725 every evening, not  
 18 1730.  
 19 Q. The CCTV footage showed a pattern of your attendance at  
 20 the store was to turn up in the morning, accompanied by  
 21 your dog, dropping your wife off --  
 22 A. That is wrong. You show me the CCTV footage where I am  
 23 accompanied by my dog in the morning, Mr Potts, that is  
 24 a lie.  
 25 Q. And you would come back in the evening, again

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1 occasionally accompanied by your dog as well. You say  
 2 you never did?  
 3 A. Not again, not again, in the evening I would bring the  
 4 dog back with me, in the morning I never took the dog  
 5 into the store.  
 6 Q. I see, in the evening, right.  
 7 A. And it's a very small little dog who the staff liked to  
 8 see.  
 9 Q. The position is that you were aware that you faced  
 10 a difficulty, didn't you, that the evidence was going to  
 11 overwhelmingly show that you weren't carrying out  
 12 anything like your contracted hours in store, let alone  
 13 the overtime, so there was a need to show that you were  
 14 doing some work elsewhere, wasn't there?  
 15 A. No. That's not true.  
 16 Q. You had to produce some evidence to show that you were  
 17 doing at least 18 hours more contracted time and another  
 18 15 hours of overtime a week?  
 19 A. No, that's not true.  
 20 Q. Dealing with the Specsavers processes and procedures,  
 21 the store has an electronic system, doesn't it, the  
 22 SOCRATES system?  
 23 A. It does.  
 24 Q. Most of the procedures are dealt with on that computer,  
 25 aren't they?

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1 A. No.  
 2 Q. You need to have remote access to that to use it out of  
 3 the store?  
 4 A. No, no, that's not all -- what you have tried to make  
 5 out, or your clients have tried to make out in the  
 6 statements, is that all the processes that the retail  
 7 director would have to use are the only place you can do  
 8 it is from the store. What is available in the store  
 9 are various processes like the analysis of the sales,  
 10 the analysis of what the optoms are doing, various  
 11 reporting documents. Now, those documents can be  
 12 printed off, downloaded, all sorts of things can happen  
 13 to them, but certainly processes like approaching  
 14 customers in the area, approaching other businesses,  
 15 a lot of the other work I did had nothing to do with the  
 16 computer installed.  
 17 What you are trying to say, Mr Potts, is that every  
 18 single retail director in the country who earns £50,000  
 19 a year on average before his profit sits in the office  
 20 all day long looking at the way he runs his business, he  
 21 sits and looks at a computer that produces a few  
 22 reports.  
 23 Q. You weren't the retail director, were you?  
 24 A. I was acting in the capacity of the retail director.  
 25 Q. That was Mr Weller's job, wasn't it?

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1 A. I was filling in for Mr Weller, as you well know, as is  
 2 in the evidence.  
 3 Q. Well, Mr Weller was in store as well, he didn't take any  
 4 time off?  
 5 A. Mr Weller was busy, had been allocated to work with  
 6 Dr Poulsen under her wing, and all he did was selling,  
 7 that's all.  
 8 Q. Isn't the main job of a retail director driving sales?  
 9 That means being on the shop floor, doesn't it?  
 10 A. So you are saying that to drive sales -- our sales in  
 11 our store were, there was an average of 70 per cent  
 12 conversion rate. How do you drive sales, when the  
 13 customers, all you are doing is driving sales with the  
 14 customers that come into the store? To drive sales, you  
 15 have to get out there and find new customers, Mr Potts.  
 16 It's not a matter of just standing on the shop floor  
 17 hoping that the sales are going to come through the  
 18 door.  
 19 Q. Let's deal with SOCRATES for the moment. I put to you  
 20 that most of the store's processes and records and  
 21 figures were on that system; correct?  
 22 A. The accounting records and analysis records were on that  
 23 system, yes.  
 24 Q. And the till?  
 25 A. And the till.

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1 Q. Yes. And that system showed that you were active on the  
 2 system from an average of 13 minutes a month; correct?  
 3 A. 13 minutes a month?  
 4 Q. Yes, 13 minutes a month.  
 5 A. I don't accept that.  
 6 Q. That's Mr McAlindon's evidence at paragraph 39.  
 7 A. Mr McAlindon, we know what his sort of evidence is. No,  
 8 my Lord, I was on there for much more than 13 minutes  
 9 a month.  
 10 Q. And the store had a part-time store manager, two  
 11 full-time assistant managers, a full-time supervisor,  
 12 and two full-time joint venture partners. It didn't  
 13 need substantial additional hours from you as well on  
 14 top, did it?  
 15 A. Well, the part-time what we call retail practice manager  
 16 was Sarah Scott, and because of Mr Weller's illness and  
 17 Ms Scott was actually employed to assist on the sales  
 18 side on the shop floor and to help keep control of the  
 19 staff on the shop floor. Mr Verrell was appointed as  
 20 an assistant manager, basically as a promotional push  
 21 him up the ladder. Ms Davies was also assistant  
 22 manager, was taken on in preparation of Mr Weller  
 23 leaving. So she was an additional expense. So she was  
 24 taken in preparation of Mr Weller leaving, which  
 25 basically was to assist Ms Scott on the shop floor.

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1 This has nothing to do with what a retail director would  
 2 do, my Lord. It's -- the retail director's job is far  
 3 more than just standing on the shop floor trying to  
 4 drive a few sales forward.  
 5 Q. Do you have volume C, please, Mr McAlindon's witness  
 6 statement? There is a summary there at paragraph 51, we  
 7 can move on to the question of you doing work at home.  
 8 Paragraph 51, and the subparagraphs, deal with  
 9 evidence, some of the evidence in relation to what the  
 10 staff were saying in relation to you carrying work out  
 11 from home. His view firstly was it was inconceivable  
 12 that you were required to do any substantial managerial  
 13 work without being in regular contact with the store,  
 14 and the evidence of the staff was that you were not in  
 15 contact with the store to a substantial extent.  
 16 A. Well, that's not correct, because I phoned the store  
 17 a number of times a day to speak to Mr Weller, Ms Scott  
 18 and Mr Verrell and various of them in the day. In fact,  
 19 it was a standing instruction at the store, if I wasn't  
 20 in there, to the store, if I wasn't in there in the  
 21 evening, that I had to be phoned with the sales figures,  
 22 the breakdown of the conversion rates, et cetera. So  
 23 every evening I had a 15-minute at least phone call, if  
 24 I wasn't in the store, with a member of this particular  
 25 team.

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1 Q. Let's deal in terms of what you were taking home. The  
 2 evidence of Romie Rhoder, working full-time, was that  
 3 you occasionally took a small file home, and it was  
 4 totally impossible that you could be working 16 hours of  
 5 overtime a month. That's wrong, is it?  
 6 A. Mr Potts, you are now -- we are talking about junior  
 7 members of staff, these are all junior members of staff.  
 8 These are people doing junior jobs, and suddenly  
 9 where -- suddenly their view and their judgment is being  
 10 accepted over the judgment of the directors of the  
 11 company. You are sitting there accepting Ms Rhoder, who  
 12 worked downstairs selling and pre-testing, knew what  
 13 I was taking from upstairs out of the store, possibly  
 14 when she didn't even see me leave the store, et cetera.  
 15 And all these staff are the same. Besides the fact that  
 16 Dr Poulsen used to bring quite a lot of documentation  
 17 home to me in her bag.  
 18 Q. Are you saying you had nothing to do with all these  
 19 staff?  
 20 A. I didn't say that. I said I don't see how they could  
 21 have known what I was carrying in and out of the store  
 22 when they were supposed to be doing their jobs. They  
 23 are junior members of staff. They are not senior  
 24 employees. They don't, they wouldn't understand what  
 25 I was taking home from the store.

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1 Q. Let's deal with, say, Gemma Davies. She is a full-time  
 2 assistant manager.  
 3 A. Yes.  
 4 Q. She says the only thing that she was aware of you  
 5 performing at home was dealing with the rotas. Is that  
 6 wrong too?  
 7 A. Well, that's probably all she knew I was doing at home.  
 8 She didn't probably know what else I was doing.  
 9 Q. And she is saying that if you were doing a lot of  
 10 overtime, she would be expecting you to take a lot of  
 11 paper home, which you didn't do?  
 12 A. I didn't say I didn't take a lot of paper home.  
 13 Q. She said you didn't.  
 14 A. Well, she is not telling the truth because she doesn't  
 15 know, she couldn't possibly know. Are you saying,  
 16 Mr Potts, that all these people were standing at the  
 17 door waiting for me to go past to see what paperwork  
 18 I had in my hand? They were busy dealing with  
 19 customers, they were busy pre-testing, some of them were  
 20 up in the kitchen staffroom, some of them were doing  
 21 something else in the store. They weren't all standing  
 22 at the door waiting to see what I was carrying.  
 23 Q. Her position, in her interview, was that as a full-time  
 24 manager she would have expected you to come back to her  
 25 with queries if you were doing that level of time and

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1 you didn't?  
2 A. I used to go back to Ms Scott with any queries, so it  
3 used to go back to her as her junior.  
4 Q. Mr Verrell's position again as a full-time five days  
5 a week assistant manager was that were very limited  
6 tasks that could be performed at home because the  
7 systems required data to be inputted in store?  
8 A. What are the systems he is talking about? What systems  
9 required data to be put in --  
10 Q. He is talking about the computer systems.  
11 A. What input are you talking about, Mr Potts?  
12 Q. That's his evidence, he says that the systems required  
13 data to be inputted in store so there were very limited  
14 things that that could be done at home. Is that wrong?  
15 A. I don't understand what data would have been input on  
16 the systems, because the only data input on the systems  
17 would have been the, as a sale was recorded, as a sale  
18 was recorded, and the other data that would be input on  
19 the systems would be from the testing rooms, so  
20 Mr Verrell wouldn't have had anything to do with that  
21 either. So can you please explain to me what data  
22 Mr Verrell is talking about that will have to be input  
23 in the store? The only data that would have been input  
24 in the store that I would have had to do was input the  
25 salary and wages data.

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1 Q. Sarah Scott again also said that she thought it was  
2 impossible that you could be doing the amount of  
3 overtime you were claiming. Is she wrong as well?  
4 A. She is, concerning that Sarah Scott did quite  
5 a considerable amount of overtime herself.  
6 Q. Are you saying they are all wrong? All these members of  
7 staff?  
8 A. Yes, and why don't you bring them to court, Mr Potts, so  
9 we can cross-examine them?  
10 Q. They are all saying you took very little home, had  
11 minimal contact with the staff when you weren't in the  
12 store and that there were also lots of staff, and it's  
13 inconceivable that you could have done substantial  
14 managerial work without being in contact with them. Is  
15 that all wrong?  
16 A. It is.  
17 Q. You also produced a work schedule during your  
18 investigatory interview; is that right? Do you remember  
19 that?  
20 A. I believe I did, yes.  
21 Q. E7.  
22 A. Can I put this one away now?  
23 Q. Yes. This is something you produced for the purposes of  
24 the investigation, was it?  
25 A. What number, sir?

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1 Q. I am sorry, 1673.  
2 A. (Pause). Yes, I believe we tried to knock something  
3 together, yes.  
4 Q. Mr McAlindon's evidence is that this purported to show  
5 a great deal of paperwork and telephone calls to staff  
6 which was contradicted by the staff's evidence; is that  
7 wrong?  
8 A. Show me where?  
9 Q. He also said there is no paperwork to show the level of  
10 this work. That was his conclusion. Is that conclusion  
11 wrong?  
12 A. Mr Potts, you haven't -- I asked you a question, when  
13 you made the previous statement, I said "Show me where  
14 it shows a lot of level of communication with the  
15 staff".  
16 Q. There is reference to staff training, interviewing  
17 staff, staff meetings, checking and dealing with --  
18 1674 -- checking in with stores or deal staff, no  
19 problems, call to lab, call to contact lens manager. Do  
20 you see all those?  
21 A. Yes. Well, those --  
22 Q. That's all --  
23 A. Those did occur.  
24 Q. That's all contact with staff, you see?  
25 A. That did occur every day.

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1 Q. Not consistent with the evidence of the employees, is  
2 it?  
3 A. Yes, all right, Mr Potts.  
4 Q. Sorry, could you answer my question?  
5 A. It's not consistent with the evidence that appears to  
6 have been created by Mr McAlindon and his team, no.  
7 Q. Mr McAlindon's conclusion was that he noted a lot of  
8 these were predominantly basic admin tasks that could be  
9 completed by staff in store?  
10 A. There were no staff in store to complete it, because our  
11 focus in store was selling, testing and selling.  
12 Q. So there is lots of checking, isn't there, checking  
13 delivery notes, for example, the first item; yes?  
14 A. Yes.  
15 Q. The evidence of the staff was that you were not taking  
16 much home, and not in touch with them?  
17 A. Well, Mr Potts, we have just been through that five  
18 minutes ago, and I am telling you that I used to take  
19 lots of stuff home, and Dr Poulsen used to bring stuff  
20 home for me, and if I wasn't in the store, Mr Weller  
21 used to bring it to me. And Ms Scott herself used to  
22 bring documents to me.  
23 Q. And if you were checking for example things like  
24 delivery dates, in order to check them, wouldn't you  
25 need to be in contact with the store?

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1 A. Why?  
 2 Q. To see whether the items had in fact been delivered?  
 3 A. No, because the items, the staff were required to mark  
 4 on the delivery note which items had been received and  
 5 which hadn't been received, give them to me, and there  
 6 was a green or blue box on the shelf above the HP  
 7 printer that they had to put the documents in HP, and  
 8 then I would take them away with me, and I would check  
 9 them against the invoices of the companies that had come  
 10 in, and if there were any queries, I would then phone  
 11 the member of staff concerned and we would discuss it.  
 12 Q. Okay. If you could turn over to page 1674, let's look  
 13 at one evening, Tuesday evening, according to the  
 14 schedules. The first thing you have is apparently  
 15 three-quarters of an hour reviewing the operations for  
 16 the day. Do you see that? I think it's the second --  
 17 Monday, Tuesday, Wednesday evenings. Do you see that?  
 18 Yes. So on a Tuesday evening you would be doing that;  
 19 correct?  
 20 A. Yes.  
 21 Q. Then you have a half hour staff training; is that right?  
 22 On Tuesday evening as well?  
 23 A. Yes.  
 24 Q. After that. Then you have an hour and a half management  
 25 meeting every week?

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1 A. Yes.  
 2 Q. Then you have another meeting with Mr Weller and your  
 3 wife for three and a half hours; is that right?  
 4 A. Yes.  
 5 Q. So that's six and a quarter meetings of activity after  
 6 work on a Tuesday night?  
 7 A. Yes, Tuesday nights we used to get to bed very late some  
 8 evenings.  
 9 Q. I put it to you, Mr Vos, that's obviously nonsense, that  
 10 level of time on a Tuesday night after work. Are you  
 11 saying that happened?  
 12 A. Let's go here. Tuesday evenings, three and a half, four  
 13 and a half hours.  
 14 Q. It comes up to six and a quarter hours of activity after  
 15 work?  
 16 A. Show me the six and a quarter.  
 17 Q. Okay, three-quarters, half, one and a half, and three  
 18 and a half.  
 19 A. Yes, it could well be. Because I know that there were  
 20 many occasions that Mr Weller left our home at midnight.  
 21 Q. Can we go to E2, please, page 455? This is the minutes  
 22 of a -- sorry, agenda for a management meeting. Is that  
 23 right?  
 24 A. Yes.  
 25 Q. Maybe it's minutes, I am not sure. There are a number

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1 of these that have been disclosed in the following  
 2 pages. Do you see that?  
 3 A. Yes, these are agenda minutes, yes.  
 4 Q. Yes.  
 5 A. That we are supposed to discuss.  
 6 Q. Now, these are things -- which in fact the minutes which  
 7 have been disclosed, they don't actually suggest that  
 8 these meetings took place every week, do they?  
 9 A. They took place most weeks. Wherever possible they took  
 10 place, unless there was somebody off ill, or somebody  
 11 not there.  
 12 Q. If you go forward to 502, have a look at 2011. If we  
 13 turn the pages forward, you will see in fact the  
 14 meetings we have are 4 January, 25 January, 31 January,  
 15 8 February, 1 March, 22 March, 5 April, 24 May. So  
 16 that's eight meetings in five and a half months. It's  
 17 not weekly, is it?  
 18 A. They were weekly, meant to be weekly.  
 19 Q. Sorry, but they were not weekly?  
 20 A. We certainly had weekly meetings with Mr Weller,  
 21 Dr Poulsen and myself every week, Mr Potts.  
 22 Q. I am talking about these are the ones which are the  
 23 management meetings. According to you you had a first  
 24 meeting, a management meeting, which involved I think  
 25 was it Sarah was at these meetings, and then you had

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1 a separate meeting afterwards you say for another three  
 2 and a half hours? This is the first meeting, I know  
 3 there is a lot of them on a Tuesday, but you had a one  
 4 and a half hour management meeting. I am talking about  
 5 these are the minutes from those meetings, aren't they?  
 6 A. Yes.  
 7 Q. Yes?  
 8 A. Yes.  
 9 Q. So they didn't take place weekly, did they?  
 10 A. They certainly did take place weekly before this, yes.  
 11 Q. In the previous --  
 12 A. I think they did, yes.  
 13 Q. The previous period doesn't show that either?  
 14 A. I don't understand what you are trying to get at,  
 15 Mr Potts. Dr Poulsen, Mr Weller and I had a meeting  
 16 every Tuesday.  
 17 Q. I am not asking you about those meetings, I am asking  
 18 you about the management meetings which took place  
 19 first --  
 20 A. Well, it would have been a management meeting between  
 21 the three of us as well, wouldn't it? These were  
 22 management meetings we had where we tried to include  
 23 Sarah Scott and in this case I see Alan Verrell, and  
 24 some of them included Niru Yogaratham, and I see some of  
 25 them included Gemma Davies.

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1 Every Tuesday there was a management meeting, some  
 2 of them included some of the staff we wanted to discuss  
 3 things with.  
 4 Q. No, I am sorry --  
 5 A. There were also other management meetings where we  
 6 didn't record minutes, where we had the lab technician  
 7 around at Mr Weller's house.  
 8 Q. Sorry, that's not -- your schedule, that we have just  
 9 looked at, showed two meetings: One, management  
 10 meetings, one and a half hours, and then meeting with  
 11 Barry and Helle after the management meeting. So there  
 12 were two meetings you are referring to there?  
 13 A. Well, there was either -- yes.  
 14 Q. In paragraph 23 of your witness statement, the minutes  
 15 you refer to and exhibit here, these ones, are referred  
 16 by you as the management meeting --  
 17 A. Paragraph?  
 18 Q. Paragraph 23 of your witness statement.  
 19 A. Paragraph 23. There I say there are records of the  
 20 mostly weekly, I didn't say every week.  
 21 Q. Okay, so you are accepting my position, which is in fact  
 22 they were not weekly?  
 23 A. I say in my witness statement they are mostly weekly,  
 24 Mr Potts. What are you trying to say?  
 25 Q. Your evidence to his Lordship before was that they were

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1 weekly and the statement in your schedule is that they  
 2 were mostly weekly; in fact, these minutes show that  
 3 they were not weekly at all, they were sporadic?  
 4 A. They were certainly weekly meetings with Mr Weller,  
 5 Dr Poulsen and myself every single week. In fact a lot  
 6 of weeks they were more than one night a week. So  
 7 whether -- what sort of meeting would you call that,  
 8 Mr Potts, if it's not a management meeting?  
 9 Q. Mr Vos, I am referring you yourself in your schedule,  
 10 which we looked at at 1674, are very keen to delineate  
 11 the fact that you had two lots of meetings regularly on  
 12 a Tuesday evening, firstly a management meeting of one  
 13 and a half hours of which these are the minutes, and  
 14 then separately an additional three and a half hours of  
 15 meetings between you, Mr Weller and your wife?  
 16 A. Mr Potts, as I've said to you, and I don't know what you  
 17 are trying to prove, but the document that we produce  
 18 for the investigation report was put together by  
 19 Mr Weller, myself and Dr Poulsen as a summary as what we  
 20 saw the situation to be. We didn't go back and look at  
 21 all the minutes and say, "Oh, gosh, we didn't have  
 22 a meeting that week, or, "We didn't have meetings that  
 23 week". We had a meeting between Dr Poulsen, Mr Weller  
 24 and myself every week, that was a management meeting.  
 25 There was another management meeting where we included

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1 some of the staff, my Lord. So Mr Potts once again is  
 2 trying to wiggle wangle something here, but the document  
 3 that we produced for the investigation with Mr McAlindon  
 4 was basically a summary of what we saw.  
 5 As I say, we didn't go back and look at each set of  
 6 minutes to find out whether we had had a meeting that  
 7 week or not.  
 8 Q. The first point is that the summary which you put  
 9 forward was clearly wrong, it exaggerated the position,  
 10 didn't it, in terms of the number of these meetings?  
 11 A. No, it didn't, Mr Potts, it was a summary, it was what  
 12 we had sat down and thought: well, this is what we do,  
 13 that is what we do, this is what we do. It was  
 14 a summary of what we believe that we did. As I say, we  
 15 didn't go back and check each set of management meeting  
 16 notes, we didn't minute the meetings between Mr Weller,  
 17 Dr Poulsen and myself which we had every Tuesday. In  
 18 fact, I think we had one every Sunday night as well, and  
 19 we met a number of other nights in the week. We didn't  
 20 minute those meetings. The only reason we minuted these  
 21 meetings was because there were action points we wanted  
 22 some of the staff to know that they had to do.  
 23 Q. Wouldn't you need to know the action points for your own  
 24 meetings? In fact, these meetings according to you were  
 25 very much significantly longer, three and a half hours

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1 every Tuesday, surely you would want a record of that as  
 2 well, considering how much longer it was?  
 3 A. Well, what you are trying to say now is that --  
 4 Dr Poulsen, Mr Weller and I have had a very close  
 5 relationship for over ten years, and sitting in those  
 6 meetings every evening, to then sit and try and do  
 7 minutes of them over, when we understood between the  
 8 three of us what we were going to be doing, whereas when  
 9 you get staff involved they need to know what they are  
 10 doing. So I don't understand what you are trying to get  
 11 at.  
 12 MR POTTS: My Lord, that may be a convenient moment.  
 13 MR JUSTICE HILDYARD: Yes. How are we doing on timing?  
 14 MR POTTS: I am making progress, my Lord. I don't know --  
 15 I think I will nearly finish this afternoon, I am not  
 16 sure, it depends on -- some of the answers are quite  
 17 long, so that may extend matters into Monday.  
 18 MR JUSTICE HILDYARD: Very well. We will reconvene at five  
 19 past 2.  
 20 Mr Vos, as you know from your attendance previously,  
 21 you mustn't discuss your evidence with anybody else  
 22 during the time you are in the witness box. I know you  
 23 won't, but I have formally to remind you of that.  
 24 THE WITNESS: I understand that, my Lord.  
 25 (1.05 pm)

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1 (The short adjournment)  
 2 (2.05 pm)  
 3 MR POTTS: Mr Vos, could you please take up volume E2, and  
 4 go to page 473, please. These are the minutes for  
 5 a meeting on 2 June 2009. Do you have that?  
 6 A. Yes.  
 7 Q. It shows who was present, SS, that's Ms Scott?  
 8 A. Yes.  
 9 Q. Then on the right-hand side is actions, that's  
 10 identifying who is responsible for a matter; is that  
 11 right?  
 12 A. Yes.  
 13 Q. So number one, matters arising, you are doing the rota,  
 14 and speaking to people with opening hours; correct?  
 15 A. Yes.  
 16 Q. Then outstanding, the NHS audit was due, according to  
 17 the files, that was you; is that right?  
 18 A. That's right, I used to do that with Dr Poulsen, yes.  
 19 Q. You are going to book somebody into a training course?  
 20 A. Yes.  
 21 Q. So looking at this, Mr Weller is doing quite a bit,  
 22 isn't he, he is doing contact lens training, do you see  
 23 that, a couple of items down?  
 24 A. Yes, that's training sessions once a week, so we  
 25 allocated somebody to do it for half an hour.

1 21

1 Q. The contact lens teachers, monitoring work completed,  
 2 yes, that's him as well?  
 3 A. Yes.  
 4 Q. "Team to be advised on frames stocks appropriately";  
 5 that's him too?  
 6 A. Yes.  
 7 Q. Number four, "Remakes and error", that's him as well.  
 8 Barry Weller and AV. Who is AV?  
 9 A. Where is that?  
 10 Q. I am sorry, item number four.  
 11 A. Alan Verrell.  
 12 Q. Okay, Mr Verrell. To take on responsibility for remake  
 13 analysis. Then you are going to email a spreadsheet?  
 14 A. Yes.  
 15 Q. Then eight, that's you, you are going to put through  
 16 an order?  
 17 A. Yes.  
 18 Q. Then nine, on the training, "Optom and retail team to be  
 19 trained". That's going to be your wife and Mr Weller?  
 20 A. Yes.  
 21 Q. So that's consistent with their roles as optical and  
 22 retail directors, that's consistent with their roles;  
 23 isn't it?  
 24 A. What's that?  
 25 Q. Training the optom and the retail team. He is training

1 22

1 the retail team, your wife is training the optom --  
 2 A. No, that's not consistent with their roles, because  
 3 there are all sorts of people that did all sorts of  
 4 training for all sorts of teams. It's just in that  
 5 particular instance there was going to be an optometrist  
 6 and a retail bit of training to be done.  
 7 Q. Okay, but your wife is doing the optometrist training,  
 8 I assume?  
 9 A. I assume that's what it meant at the time, yes.  
 10 Q. Mr Weller was doing the retail training?  
 11 A. Yes, well, Mr Weller would have been responsible to see  
 12 that the retail team was trained, yes.  
 13 Q. That's his possibility. Now, in fact there was only one  
 14 meeting between 2 June and September, on 28 July there  
 15 was a particular meeting about staffing; do you see  
 16 that, on the following page?  
 17 A. Yes.  
 18 Q. 475. The next meeting was in fact 15 September, 476?  
 19 A. Yes.  
 20 Q. So not weekly meetings at all, was it, at that time?  
 21 A. Well, Mr Potts, they were meant to be weekly meetings,  
 22 and as I said to you there were occasions there weren't  
 23 weekly meetings. Once again we are going to the weekly  
 24 management meeting, you know. What are you trying to  
 25 say, that -- I don't understand what you are trying to

1 23

1 say.  
 2 Q. Okay, let me put it to you: you referred in the schedule  
 3 and in your evidence to there being weekly management  
 4 meetings, the evidence of the minutes --  
 5 A. I said mostly weekly --  
 6 Q. You asked me what point I was putting, so let me put it  
 7 to you: that in fact you sought to give the impression  
 8 in both your schedule and the evidence that there were  
 9 weekly management meetings with not just the three of  
 10 you but involving Ms Scott, and in fact there were not  
 11 weekly meetings?  
 12 A. There was always the intention that they should be. If  
 13 there weren't any, they were for a reason, maybe someone  
 14 was on holiday, maybe ... there could have been all  
 15 sorts of reasons for that.  
 16 Q. So you accept that they weren't?  
 17 A. I accept that of course we wouldn't have had weekly  
 18 management meetings every week, I accept that.  
 19 Q. Okay, let's look at 15 September. Matters arising, NHS  
 20 audit due, so is that -- that still hadn't been done;  
 21 was that right? That was your responsibility --  
 22 A. NHS audit is due every month, so that would have been  
 23 another month.  
 24 Q. Okay. Then you have, in fact, I think, apart from  
 25 a remake, speaking with the lab, GV, and about, talking

1 24

1 about a table, everything --  
 2 A. Sorry, what number are we on now?  
 3 Q. I am looking at 476 and 477. The only items you are  
 4 dealing with is booking a training course, doing the  
 5 audit, talking to the lab, over the page -- sorry, no,  
 6 in fact it's on this one. The only thing you are doing  
 7 is the NHS audit and booking the trainer. Those are the  
 8 only items you are dealing with, is that right, to  
 9 action?  
 10 A. Well, those that I actually have direct action on.  
 11 Q. So Mr Weller is dealing with the contact lens teach.  
 12 Item 2, he is devising the training schedule?  
 13 A. Where are we now?  
 14 Q. I am looking at 476, item 2. You are doing -- he is to  
 15 devise a training session for -- schedule for sessions,  
 16 item 2 on 476. It says "Opening Hours", and then in  
 17 terms of the action list:  
 18 "To devise training schedule for these sessions" and  
 19 I think the whole of this issue.  
 20 That's Mr Weller, isn't it?  
 21 A. That says SS and Mr Weller.  
 22 Q. Okay. Then staff, again those issues, he is dealing  
 23 with the staff on those, BW, item 3?  
 24 A. Mr Weller didn't deal with any staff, that's just  
 25 a matter that he would have had to look and see what

1 25

1 have to look and see what Marissa was doing, and Romie  
 2 and Beth were doing while they were downstairs on the  
 3 shop floor with him.  
 4 Q. These are put for him to deal with, aren't they?  
 5 A. It's routine that he would be on the shop floor with  
 6 Sarah Scott and that he would look to see what the staff  
 7 were doing. No-one has said he hadn't, didn't do that.  
 8 Q. The next one is 22 September, and then there isn't one  
 9 until 20 October, so a month later. 478, you are tasked  
 10 with -- there is the NHS audit again. That's you think  
 11 a different month; correct?  
 12 A. Yes.  
 13 Q. Then looking at staff, you were going to do a training  
 14 review with Marissa; correct?  
 15 A. Yes.  
 16 Q. Third item down on the staffing item. That's the only  
 17 staff matter, the majority of the other ones, it's  
 18 Mr Weller dealing with them, isn't it, in terms of their  
 19 training? In item 2; correct? It's either Mr Weller or  
 20 Ms Scott, and the majority are Mr Weller; correct?  
 21 A. I am just reading through it, Mr Potts, at the moment.  
 22 (Pause).  
 23 These are sort of daily shop floor matters where  
 24 Mr Weller would have been on the shop floor.  
 25 Q. This is about training them, actually, isn't it?

1 26

1 A. When you talk about training, you are sitting with  
 2 somebody, like to train on maintaining good professional  
 3 staff relationships, or to spend time with Barry Weller,  
 4 frame styling and dispensing, that means that Alan would  
 5 have stood next to Barry while Barry was selling to  
 6 a customer, to understand -- because Barry was a very  
 7 good salesman to customers, we obviously must have  
 8 identified some sort of problem, which it says here, his  
 9 sales focus leads him to make mistakes, he needs to  
 10 speed up quickly, to shadow SS on problem solving and  
 11 basically to spend time with Barry frame styling and  
 12 dispensing. So when Barry was dealing with a customer,  
 13 standing with a customer, Alan Verrell was standing next  
 14 to him. These are all sort of daily things. To be  
 15 trained in all aspects of contact lens when she has  
 16 completed OA3.  
 17 Q. Well, let me just deal with a couple of points. Firstly  
 18 with Mr Verrell, saying he is very enthusiastic, he  
 19 needs to get up to speed quickly for when BW off. So  
 20 when Mr Weller was off, the idea is Mr Verrell is  
 21 standing in for him; correct?  
 22 A. The idea that he was standing in for Mr Weller who would  
 23 be -- would have been selling, because Mr Weller  
 24 actually did the job of an optical assistant on the shop  
 25 floor selling. This is all to do with being on the shop

1 27

1 floor and selling. It's got nothing to do, Mr Potts,  
 2 with running the whole business.  
 3 Q. It says "BW off", it's when he's away, isn't it, when  
 4 he's off for a day off?  
 5 A. Mr Verrell would be able to sell on the shop floor.  
 6 Q. When Mr Weller was off for a day off, yes? Then for  
 7 example Romie, there is loss of momentum with procedures  
 8 review training, that's again Mr Weller, isn't it?  
 9 A. Daily stuff on the shop floor. In other words, the  
 10 procedure on the shop floor, so she would have had to  
 11 stand with Mr Weller while Mr Weller did something on  
 12 the shop floor to learn how to do the procedure.  
 13 Q. This level of activity by Mr Weller with these meetings  
 14 in June is hardly consistent with the suggestion that  
 15 from June 2009 you were acting as retail director, he is  
 16 doing a lot of work here, isn't he?  
 17 A. Mr Potts, he is not doing all the retail director's  
 18 work. I mean, obviously you don't understand anything  
 19 about the business whatsoever to be making those sort of  
 20 remarks. Mr Weller was on the shop floor, he was out  
 21 selling, he was teamed with, if you look at the rotas,  
 22 Dr Poulsen at the time, because that gave him  
 23 confidence, and he would have had to have one of these  
 24 people latch on to him to learn how to do things. So  
 25 that's not the whole retail job, it's -- this is

1 28

1 training on particular selling aspects.  
 2 Q. There are two points. Firstly, he is not just selling,  
 3 he is dealing with training. He has also been tasked  
 4 with a large number of matters, hasn't he?  
 5 A. To do with people latching on to him on the shop floor,  
 6 yes.  
 7 Q. By way of contrast, in terms of the matters you are  
 8 required to action are extremely few, aren't they? He  
 9 is doing a lot more than you are?  
 10 A. So I had to go out and see customers to get new business  
 11 in. I arranged things like mystery shoppers on  
 12 surrounding stores. When you have said earlier that all  
 13 the information is on the computers in the store, that  
 14 wasn't true because all the monthly accounts were posted  
 15 to our home, all the bank statements were posted to our  
 16 home. Things like the NHS, if you take the NHS thing,  
 17 on numerous occasions NHS payments were processed by  
 18 Specsavers Finance (Guernsey) to the Bangor store, and  
 19 these things had to be identified.  
 20 What you are talking about here, Mr Potts, is  
 21 related to the selling, and what we -- what Barry was  
 22 restricted to during this period, my Lord, was being  
 23 tied with Dr Poulsen so that she could keep an eye on  
 24 him and make sure that he didn't have any problems. At  
 25 the same time, because he was a very good salesman and

1 29

1 he knew the procedures, was to latch one of these staff  
 2 members on to him. That doesn't mean the whole retail  
 3 job -- the whole retail director's job is encompassed in  
 4 these few little lines you have got here.  
 5 Q. What it does show is what's going on on a week by week  
 6 basis, doesn't it?  
 7 A. It shows what is going on on the shop floor on a week by  
 8 week basis because these are all matters relating to  
 9 what the staff have to do on the shop floor.  
 10 Q. In terms of you say, in terms of promotion and so on,  
 11 isn't that what Specsavers were doing, they had national  
 12 campaigns, they did marketing?  
 13 A. Specsavers didn't manage to increase the turnover of the  
 14 Bognor store in all the years, before we got there the  
 15 Bognor store was performing very badly and customers in  
 16 the area weren't prepared to come into the store because  
 17 of the attitude in the store, they had nothing to do  
 18 with that, Specsavers, yes, has a very good national  
 19 marketing policy, but when you are in a small town like  
 20 Bognor Regis, they didn't understand the profile of the  
 21 customers in the town, and I was the one who went out  
 22 and brought the customers in. I was the one who went  
 23 out and visited all the businesses in the area, my Lord,  
 24 spoke to the managing directors of the businesses, large  
 25 and small, managed to make them offers to come into the

1 30

1 store for their families and their wives and their  
 2 children, and increased the business. We increased the  
 3 business by something like 60 per cent. When Specsavers  
 4 with all their marketing ability went in after we were  
 5 kicked out, they managed to reduce it by £300,000 a year  
 6 from 1.57 million to 1.27 million. So that's how good  
 7 they were, running the store. Their marketing is very  
 8 good, their national advertising is very good, but  
 9 putting their own people into the store is not very  
 10 good.  
 11 Q. The items that you have just dealt with, could you go  
 12 back to E7, please, your work schedule?  
 13 A. I don't think I have that now.  
 14 Q. Could you have E7, please?  
 15 A. Yes.  
 16 Q. Firstly, let's deal with other meetings. You also say  
 17 that you had meetings, we have talked about the six and  
 18 a quarter hours on a Tuesday night, you also have in  
 19 this general schedule a lot of other meetings that were  
 20 apparently taking place. Going through the bottom line  
 21 reports for 36 hours; yes?  
 22 A. Sorry, I don't know what number you are looking at.  
 23 MR JUSTICE HILDYARD: What page?  
 24 MR POTTS: My Lord, I am sorry, 1674.  
 25 A. Yes.

1 31

1 Q. On top of the meetings we were already talking about,  
 2 you are saying there were further meetings once every  
 3 month to discuss staff performance, 24 hours?  
 4 A. Where is that?  
 5 Q. Three-quarters of the way down the page, towards the  
 6 bottom. This is, I think, throughout the year. Do you  
 7 see the second holepunch, it then breaks into --  
 8 A. Yes.  
 9 Q. -- other work throughout the year. Then you have bottom  
 10 line reports, 36 hours; yes? Do you see that? You have  
 11 found the second holepunch, it's two items further down.  
 12 A. 1674?  
 13 Q. 1674. Do you find the second holepunch and go down  
 14 a bit, there is a figure on the right-hand side of 36.  
 15 A. That's meetings with Barry and Helle?  
 16 Q. Yes, to go through the bottom line analysis?  
 17 A. Yes.  
 18 Q. So on top of all these other meetings you have 36 hours  
 19 of meetings in relation to the bottom line reports. We  
 20 have seen those, they are two pages long.  
 21 A. No, they are not.  
 22 Q. The reports themselves are.  
 23 A. No, the bottom line accounts are something probably like  
 24 50 or 60 pages long.  
 25 Q. I see. Then you have below that 24 hours on staff

1 32

1 performance, once a month?  
2 A. Where is that? Oh yes, that was around about the 11th  
3 of the month, to finalise salaries, overtime, bonuses  
4 and --  
5 Q. This is on top of the three and a half hours that you  
6 have every week with them separately after the  
7 management meetings of an hour and a half; is that  
8 right?  
9 A. Yeah.  
10 Q. So 112 hours a year on separate meetings on top of the  
11 six and a half hours every week?  
12 A. Absolutely.  
13 Q. No minutes of any of these meetings, are there?  
14 A. No, because we didn't need minutes of the meetings  
15 between the three of us. If I had had to do minutes of  
16 these meetings, Mr Potts, I would probably have had to  
17 add another maybe 12 or 14 hours a year for doing the  
18 minutes and reviewing them and going over them again.  
19 Q. Then there is additional time with Barry Weller for two  
20 and a half hours on Sunday night each week as well; is  
21 that right?  
22 A. Yes, that's right.  
23 Q. Then discussing performance with the manager three times  
24 as well, and then also with Sarah Scott as well?  
25 A. Where is that?

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1 Q. 45 minutes. That's on a Thursday night.  
2 A. Sorry, what page?  
3 Q. If you go back to page 1673, between the two  
4 holepunches.  
5 A. (Pause) Yes, and what are you trying to say?  
6 Q. I am dealing with the number of meetings that you claim  
7 to have had during each week. Could we go to E5? The  
8 conclusion of the -- put E7 away.  
9 A. I have so many documents open.  
10 Q. Sorry, yes. Your reference to going out into the street  
11 and pulling in customers, where is that in E7? Sorry,  
12 before you put E7 away.  
13 A. What number is the schedule again?  
14 Q. 1674. (Pause). I can see the 36 hours to arrange the  
15 Christmas party, but I can't see the marketing --  
16 A. That's what I did, Mr Potts, I went out and did that.  
17 Whether that has been put in there, as I said, we sat  
18 down and we --  
19 Q. What about the evidence you gave to his Lordship, where  
20 is that in there?  
21 A. Well, the mystery shoppers would have been including  
22 analysing the store's performance against other stores.  
23 I can't seem to find it, but I can't find it through  
24 skimming through it but --  
25 Q. You seem to say that the key aspect of your job, it

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1 wasn't actually about sales at all, apparently, it's all  
2 about getting out in the town and getting the customers  
3 in, so you say that's your key item, but it doesn't  
4 appear on your schedule.  
5 A. No, I didn't say it was a key item, Mr Potts, I said it  
6 was one of the items I had to deal with.  
7 Q. It is not on this schedule, is it?  
8 A. Yes, I am terribly sorry but it's something you missed  
9 when you were doing the quick analysis check.  
10 Q. You accept it was not on this two-page document?  
11 A. It is not on that schedule. Well, I am not sure.  
12 I haven't looked at it in detail. If you say it is not,  
13 it is not.  
14 Q. Let's go back to E5, so you can see, 1286. It deals  
15 with the some of the conclusions from the report in  
16 relation to your work. Just in relation to your basic  
17 pay, let alone the overtime, et cetera. It makes the  
18 point that in the middle of the page --  
19 A. Whose report is this?  
20 Q. This is the investigation report.  
21 A. From?  
22 Q. The investigation report from SOG. I think this is  
23 a document you have probably seen quite a few times,  
24 Mr Vos.  
25 A. From Phil Barnes?

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1 Q. Yes.  
2 A. This is the one that contains some outright lies in it.  
3 Q. We will come to your allegations in that regard in due  
4 course. Can we just deal with 1286, please?  
5 A. Yes.  
6 Q. So it deals with just your basic pay. The employees'  
7 evidence is that you didn't complete 24 hours in store,  
8 that it was significantly less than that, and in  
9 relation to the idea of doing work elsewhere there was  
10 little evidence, if any, of you completing work from  
11 home, no remote access, no experience of employees  
12 contacting them on a regular basis, and so on.  
13 There is also a reference to a lack of records on  
14 overtime, or a lack of production of documents to  
15 support the work. Now, your position is that  
16 Mr McAlindon and Mr Barnes couldn't have genuinely  
17 formed the view that you were not in fact doing the work  
18 you were paid for; is that right?  
19 A. Not on the basis of their manufactured evidence, no.  
20 Q. I put it to you that it was plainly open to them to come  
21 to that conclusion, based on those matters alone?  
22 A. No.  
23 Q. I also put it to you that based on that evidence you did  
24 not in fact complete much more than six to eight hours  
25 per week that you were in store?

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1 A. No.  
 2 Q. Certainly none of the overtime?  
 3 A. Nonsense.  
 4 Q. Like every other member of staff, there are no documents  
 5 supporting your overtime claims, are there?  
 6 A. Can you show me, point me to the other documents from  
 7 the other members of staff, please?  
 8 Q. Well, let's have a look.  
 9 A. In the evidence.  
 10 Q. Okay. Is if you could go, please, to -- I am trying to  
 11 find one in the same bundle. Let's go back to 1212.  
 12 This is Mr Weller's interview. Yes?  
 13 A. That's not what I asked you, Mr Potts, I didn't ask you  
 14 to show me Mr Weller's interview, I asked you to show me  
 15 one of these documents.  
 16 Q. Let me ask the questions, please, Mr Vos. Go to 1212,  
 17 please. Line 3925, this is Mr Weller's interview. He  
 18 says, the question is:  
 19 "Question: Godfrey doesn't actually fill out  
 20 an overtime sheet, does he?  
 21 "Answer: No, he doesn't.  
 22 "Question: Every other employee in the store has to  
 23 fill out an overtime sheet?  
 24 "Answer: That's correct."  
 25 I put the point to you again: every other employee

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1 in the store did fill out an overtime sheet apart from  
 2 you; is that correct?  
 3 A. No.  
 4 Q. So Mr Weller is wrong, is he?  
 5 A. He is wrong there, yes.  
 6 Q. Mr McAlindon's evidence is to that effect as well, it's  
 7 paragraph 54 of his statement, if you have volume ...  
 8 (Pause)?  
 9 A. Do you have a document?  
 10 Q. Yes, volume C, tab 3, page 66.  
 11 A. Volume C.  
 12 Q. Page 66.  
 13 A. Which tab?  
 14 Q. Tab 3.  
 15 A. Yes.  
 16 Q. Paragraph 54. Yes? You were claiming on average £15  
 17 overtime every week, and at 53 he deals with:  
 18 "The overtime claim form which must be used by  
 19 employees stipulated that it must be claimed at the end  
 20 of the month. The form must be submitted and all  
 21 overtime must be approved by a director. Whilst  
 22 overtime records to support overtime payments made to  
 23 other staff existed ... there were no overtime records  
 24 to support the payments to Mr Vos."  
 25 Is that wrong?

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1 A. It says:  
 2 "While overtime records to support overtime payments  
 3 made to the other staff existed, as per the above  
 4 procedure, there were no overtime records to support the  
 5 overtime payments to Mr Vos."  
 6 I asked you, Mr Potts, to show me, just so  
 7 I understand, where these overtime records are, because  
 8 it says that they existed.  
 9 Q. Mr Vos, I have put to you both the evidence of  
 10 Mr McAlindon in that regard, and the evidence of  
 11 Mr Weller, which was that all the other staff put the  
 12 forms in but you didn't.  
 13 A. Well, as far as the evidence of Mr McAlindon is  
 14 concerned, Mr Potts, I wouldn't believe a word the man  
 15 says. As far as Mr Weller is concerned, he is correct  
 16 in that he, I and Dr Poulsen would get together and  
 17 discuss the overtime, as far as I was concerned, but  
 18 there were a large number of the employees in the store  
 19 who didn't complete overtime forms that Mr Weller and  
 20 I discussed as well. For example, Ms Butler, who was  
 21 the contact lens manager, who used to sit right outside  
 22 the door to me, and Mr Weller in the office, would  
 23 say -- we would ask her to work some extra overtime, and  
 24 we would put her through on the computer between the two  
 25 of us, we never needed to fill in a form.

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1 When the staff, at the end of a financial year, or  
 2 half financial year, during the stock take, they would  
 3 come in late on the day that the stock take had to be  
 4 taken, and if they worked until 7 o'clock or 7.30,  
 5 Mr Weller and I would sit down after they had left and  
 6 we would put their overtime through. They didn't need  
 7 to complete an overtime form. So there wasn't  
 8 an overtime form for every single member of the staff  
 9 put through. Sorry?  
 10 Q. Mr Weller is wrong in his interview?  
 11 A. I am afraid at that point he was wrong, yes, I mean, he  
 12 was asked the question generally, but if one sits and  
 13 analyses it, he was wrong, yes.  
 14 Q. Let's move on.  
 15 The other point that Mr McAlindon points to, it is  
 16 in paragraph 61 of his statement, is that if you had  
 17 been doing extensive amounts of paperwork for the store,  
 18 he would have expected to see evidence at the store but  
 19 there was hardly any documentation at all?  
 20 A. That was because the documentation was kept at my home  
 21 office, as he well knew.  
 22 Q. Let me also ask you about --  
 23 A. By the way, Mr Potts, there was quite a lot of  
 24 documentation at the store which I am sure -- which we  
 25 asked to be put in discovery, and they suddenly claimed

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1 there wasn't any. If we look at the Dartford store,  
 2 which is exactly the same sort of thing happened,  
 3 Mrs Swarandee Birdi had gone into the Dartford store  
 4 and found the loss prevention team shredding documents.  
 5 Q. Mr Vos, I would like to ask you about matters which you  
 6 can give evidence to this court based on your  
 7 experience.  
 8 A. Mrs Birdi will be giving evidence on that.  
 9 Q. I will come on to the point about disclosure in  
 10 a moment. You were asked in the interview about  
 11 deleting information from the office laptop and the  
 12 desktop. Do you remember that?  
 13 A. Yes.  
 14 Q. Could I ask you to turn up E4, please, page 1062.  
 15 Please read 473 down to the bottom of the page, please,  
 16 the second holepunch.  
 17 (Pause)  
 18 A. Is this supposed be to my interview now?  
 19 Q. Yes, if it helps you could turn back to page 1046.  
 20 A. Could I just say I refused to sign this document.  
 21 I asked for a copy of it, as is a requirement, my Lord,  
 22 in terms of the staff handbook, I asked if I could have  
 23 a copy of it, I was told that I was not permitted to  
 24 have a copy of it. When I put my grievance complaint  
 25 in, this is one of the complaints I put in, and I only  
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1 received a copy of this document, so I didn't review the  
 2 document.  
 3 Q. Could you look at 1064 just to deal with --  
 4 A. I didn't review the document, my Lord, and it was only  
 5 after I put in a grievance complaint that I was given  
 6 a copy of it.  
 7 Q. 1062 is consistent with part of that, you say that you  
 8 refused to sign the documents until given a copy of it.  
 9 It was explained you would be given a copy of the  
 10 documents once the investigation was complete and the  
 11 decision made. You were not happy to sign on this  
 12 basis, however you signed the first five pages and  
 13 corrections were made in biro. Correct? That's what  
 14 you said?  
 15 A. Yeah.  
 16 Q. Okay. Let's go back to 1062. Line 473 down to the  
 17 bottom of the page, could you read that to yourself?  
 18 The bottom holepunch.  
 19 (Pause)  
 20 A. Yes.  
 21 Q. Okay. So you were asked about deletion of files from  
 22 the laptop and the desktop; direct?  
 23 A. Yes.  
 24 Q. And you denied that anything had been deleted from  
 25 those; is that correct?  
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1 A. "... found that data from computers had been deleted.  
 2 Who deleted the file from the client 12 laptop computer  
 3 and the laptop?"  
 4 And I said:  
 5 "Nothing had been deleted from there, where was it  
 6 deleted from?"  
 7 Q. Yes. If you could pick up E4, which we have here still,  
 8 and go to 1067, you wrote in relation to a complaint,  
 9 and on 7 July --  
 10 A. Yes.  
 11 Q. Then at 1069, item 2, you said:  
 12 "No information was deleted by any of us from either  
 13 computer."  
 14 A. That's right, correct.  
 15 Q. In fact you had made deletions from the computer, hadn't  
 16 you?  
 17 A. What deletions had I made, Mr Potts?  
 18 Q. If you go on to 1074, that report indicates that  
 19 a programme called Uber-Uninstaller was introduced on  
 20 13 June 2013, that's two days before the suspension, in  
 21 order to delete AOL email accounts, and it also shows  
 22 that other documents were deleted as well, weren't they?  
 23 A. Well, I don't know what other documents were deleted but  
 24 certainly I would delete my personal AOL account off it,  
 25 but that wasn't a company document. That was  
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1 a programme anyhow, it wasn't a document.  
 2 Q. It also refers to other documents being deleted and --  
 3 A. Where are these documents? Show me.  
 4 Q. Well, it shows that there has been a deletion applied.  
 5 It includes, included an account, this is the Specsavers  
 6 BR202 account, email account; is that right?  
 7 A. I just want to see what documents were deleted.  
 8 Q. Traces of the client account were there.  
 9 A. Which client account?  
 10 Q. If you see the second holepunch:  
 11 "Traces of the AOL mail account were found on the  
 12 image of the computer."  
 13 A. What page are we looking at now?  
 14 Q. 1074.  
 15 A. (Pause). Yes, my AOL account, there were traces left on  
 16 it.  
 17 Q. So messages were deleted from the machine?  
 18 A. No. The AOL programme had been removed from the  
 19 machine. It wouldn't have had any messages on it. The  
 20 messages would have been saved on the AOL server. They  
 21 are not on the computer. There is no messages on the  
 22 computer. They would have been on the AOL server.  
 23 Q. No, because there was in fact an inbox that was deleted,  
 24 you can see that if you go over the page, there are  
 25 fragments of messages which have been -- if you look at  
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1 1076, these are items, this is a screenshot in relation  
 2 to the computer.  
 3 A. What page are you on now?  
 4 Q. 1076.  
 5 A. Which computer is this now?  
 6 Q. It shows the modification data and then details of what  
 7 had come off the computer from the mailbox.  
 8 A. Is AOL mailbox message fragments --  
 9 Q. Off the computer?  
 10 A. No, it wouldn't have been on the computer, it would have  
 11 been on the AOL account.  
 12 Q. So what does the uninstall programme do, then? Are you  
 13 saying it doesn't do anything in terms of the computer?  
 14 That's not what this report shows.  
 15 A. The AOL account was my personal AOL email account,  
 16 Mr Potts. Would you like me to have left it on the  
 17 computer for Specsavers' benefit? It wasn't any of the  
 18 company documents that were deleted from the account.  
 19 Q. That's different from what you told the interview, isn't  
 20 it? You didn't say "Actually I did take some stuff off  
 21 the computer but it was my personal stuff". The answer  
 22 you gave in two places was that:  
 23 "No information was deleted by any of us from either  
 24 computer."  
 25 You didn't say no company information?

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1 A. I said I deleted a programme, this is a programme,  
 2 Mr Potts, it is not data.  
 3 Q. E4/1067 was the letter we saw, if that helps you. We  
 4 looked at it at 1069, item 2. You said:  
 5 "No information was deleted by any of us from either  
 6 computer."  
 7 And that was the same response you had given in  
 8 interview.  
 9 A. No information was deleted. No information was deleted,  
 10 Mr Potts. Information is a little bit different to  
 11 removing my AOL programme. It's not information, that  
 12 is a programme that I took off. And that's the only  
 13 thing I took off, is my personal AOL email address  
 14 programme, which, if you know anything about AOL, you  
 15 have seven names underneath the AOL programme, and what  
 16 I did was I put the AOL programme on the laptop computer  
 17 so that I could transfer, we could scan in documents  
 18 because the back office computer didn't have a scanner,  
 19 I could scan in documents and send them to myself at my  
 20 own email address at home. So all I did was remove the  
 21 AOL programme which was gvos@aol.com which had  
 22 subsidiary accounts to it, one of them was  
 23 drpoulsen@aol.com and the other one was the private  
 24 account we used at Specsavers, br202@aol.com.  
 25 Q. Oak, let's move on to the documents. Now, you made

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1 a point about disclosure, apparently asking for  
 2 documents on disclosure. Could you pick up F1?  
 3 A. Can I get rid of some of those files again, because  
 4 I have about five now?  
 5 Q. Absolutely, let's do that.  
 6 A. Which do I keep?  
 7 Q. F1.  
 8 A. E4?  
 9 Q. No, could you keep E4, actually.  
 10 A. C?  
 11 Q. C can go. E5 can go, I think.  
 12 A. E2?  
 13 Q. Yes, I think so. We will see how we go. We can always  
 14 get something back if we want it afterwards.  
 15 MR JUSTICE HILDYARD: Mr Potts, I am sorry to interrupt,  
 16 while you are finding that, where can I find out, or  
 17 will you be coming on to the manner in which these  
 18 interviews were recorded? Is there evidence to be  
 19 adduced on that?  
 20 MR POTTS: May I take a point on that, consider that at the  
 21 short break, my Lord?  
 22 MR JUSTICE HILDYARD: Yes, of course.  
 23 MR POTTS: I am not quite sure on the hoof.  
 24 A. Where do you want me to go now?  
 25 MR POTTS: Sorry. My Lord, just in relation to that point,

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1 the point I have just dealt with has been dealt with in  
 2 writing by Mr Vos as well. He confirms what he said in  
 3 interview separately afterwards, as I showed  
 4 your Lordship that letter.  
 5 MR JUSTICE HILDYARD: Has the look -- I don't want the  
 6 interrupt the examination, but has the look of  
 7 a recording. I sense that it wasn't actually  
 8 a recording. I sense some other process.  
 9 MR POTTS: I will take instructions, my Lord.  
 10 So do you have F1?  
 11 A. I do.  
 12 Q. 197. It's at this point, this is a letter which, it's  
 13 quite long, that starts 13 May 2013. Do you see that?  
 14 A. Mm.  
 15 Q. It's a letter from your solicitors. This is three and  
 16 a half months after disclosure has been given in the  
 17 action.  
 18 A. Yeah.  
 19 Q. Okay? Then at 197, at that point your solicitors are  
 20 asking about a storage device, and also at the bottom of  
 21 the page there is a reference to a green or blue box  
 22 entitled "Godfrey, above the shelf closest to the front  
 23 door".  
 24 Mr McAlindon's evidence is that there were no such  
 25 documents or USB sticks found in the store. This is

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1 obviously after the event. The first mention of this  
 2 USB sticks apparently come in March 2013, back at  
 3 page 160. The box's first mention is May. Mention of  
 4 USB sticks is March. It's item 9 on page 160.  
 5 A. Yes.  
 6 Q. So this is after disclosure.  
 7 The other point I would like to put to you, Mr Vos:  
 8 this is inconsistent with what you said to Mr McAlindon  
 9 at the time. You said that all contracts, delivery  
 10 notes, correspondence, invoices, mystery shopper  
 11 reports, anything sensitive was kept at home?  
 12 A. That's true.  
 13 Q. That's not consistent with leaving USB sticks and a box  
 14 of stuff at the store, is it?  
 15 A. It is consistent because it is true that all the hard  
 16 copies of all documents were kept at home. Obviously  
 17 I needed to have a back-up of documents, and there  
 18 weren't only my USB sticks, there were USB sticks of  
 19 Alan Verrell and Sarah Scott which contained  
 20 information. When we asked for those USB sticks we were  
 21 told they are personal USB sticks, they have nothing to  
 22 do with the company, but they were actually containing  
 23 company information.  
 24 Q. Your evidence was that you kept anything sensitive at  
 25 home. The USB sticks, you are saying that you left them

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1 containing sensitive documents lying around the store;  
 2 is that right?  
 3 A. No, I didn't leave them lying around the store, I kept  
 4 them in my green box.  
 5 Q. In the store.  
 6 A. One USB stick, incidentally. The other USB stick was  
 7 kept by Sarah Scott, and the other one was kept by  
 8 Alan Verrell. My USB stick which was a back-up of  
 9 documents, basically it was mostly employment contracts,  
 10 was kept at the store. The reason for that, my Lord,  
 11 would be obvious, that I didn't want, if there was any  
 12 problem at my own home, at least we would be able to  
 13 recover it from the documents in the store.  
 14 Q. So your concern was not security at the store, but  
 15 security at your home in that case; is that right?  
 16 A. Well, if there had been a fire in my home or something  
 17 like that, obviously I would need to be able to extract  
 18 the information from the documents, which the USB sticks  
 19 were protected by password, so they couldn't have been  
 20 accessed by anybody else.  
 21 Q. I see, if we go back to 193 in F1, this deals with your  
 22 own disclosure, you agreed to give standard disclosure  
 23 in the same way as the claimants; correct?  
 24 A. This is a letter from a solicitor.  
 25 Q. It is, I am just asking you a question generally: you

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1 agreed to give standard disclosure in this action;  
 2 correct?  
 3 A. Yes, I did, yes.  
 4 Q. On 13 May your solicitors confirmed that documents on  
 5 the list with your names are documents created or under  
 6 your control; do you see that in the middle of the page?  
 7 "we confirm".  
 8 A. Yes.  
 9 Q. If you go back to 164, the WGV, that's your items, yes?  
 10 A. Mm.  
 11 Q. In fact a lot of these matters are documents which were  
 12 not created by you but were documents that you may have  
 13 held such as Mr Yogarathnam's CV, for example?  
 14 A. Yes.  
 15 Q. These aren't all documents created by you?  
 16 A. Well, they are documents produced by me.  
 17 Q. Produced by you, yes.  
 18 A. Mm.  
 19 Q. The point is that in fact the list of the documents,  
 20 having been through it, it seems on analysis there is  
 21 only about 19 of these are categories of documents  
 22 actually created by you or in your control. Certainly  
 23 what there isn't is there is no depth of documentation  
 24 disclosed showing and supporting your contention of  
 25 frequent contact with the store and its employees, is

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1 there?  
 2 A. What would you like me to have done, produced my  
 3 telephone records?  
 4 Q. There is no disclosure, indeed you have not disclosed  
 5 emails, texts, telephone bills, showing the level of  
 6 contact or documents showing the level of contact with  
 7 the store which you now contend for, have you?  
 8 A. I am sorry, I don't understand.  
 9 Q. You haven't --  
 10 A. Why would I be emailing staff in the store? Why would  
 11 I be writing to them when I spoke with them every day,  
 12 either on the telephone or in the store?  
 13 Q. Their --  
 14 A. Why would I be thinking that I should keep a record,  
 15 keep my telephone bills?  
 16 Q. Because the evidence which they gave in the  
 17 investigation was that you weren't in contact with them  
 18 on a frequent basis?  
 19 A. Fine, Mr Potts, that's not true. Let's cross question  
 20 them.  
 21 Q. Okay. Let's move on to your issue of your employment  
 22 file and the documents you produced in the investigatory  
 23 interview. Now, there were no documents in relation to  
 24 your employment file in the boxes which were produced by  
 25 your then solicitors; correct?

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1 A. I don't believe you.  
 2 Q. Sorry?  
 3 A. I don't believe your client, Mr Potts, I believe that  
 4 the document was there, and if I once again can cite the  
 5 Dartford case, which will be given evidence on,  
 6 Mr Mustaq Rehman is the husband of Swarandeeep Birdi.  
 7 My Lord, this is another case that will be heard in this  
 8 court in April next year, but she is a witness in this  
 9 case, she is giving evidence on this, I understand.  
 10 MR JUSTICE HILDYARD: Is this a matter on which you can  
 11 speak?  
 12 A. I can speak, yes, because I have spoken to her about it.  
 13 MR JUSTICE HILDYARD: I think it's not really within your  
 14 own knowledge, just on the basis of what you have heard.  
 15 A. All right. What I have heard is that her husband,  
 16 husband's file was also went missing --  
 17 MR JUSTICE HILDYARD: I don't think this evidence will be  
 18 admissible, I suppose --  
 19 MR POTTS: There is no hearsay notice, my Lord.  
 20 MR JUSTICE HILDYARD: There is no hearsay notice about it.  
 21 MR STUART: You will be hearing from Mrs Birdi anyway,  
 22 my Lord, so I think your Lordship is right to just --  
 23 MR JUSTICE HILDYARD: I will not be deprived of it in the  
 24 end.  
 25 MR POTTS: Her evidence doesn't cover these matters,

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1 my Lord.  
 2 MR JUSTICE HILDYARD: Then I may be.  
 3 MR POTTS: Could you go to 1047?  
 4 A. Which file?  
 5 Q. In E4. I should make the point that when the loss  
 6 prevention department arrived in store, they couldn't  
 7 find any employment records; correct?  
 8 A. No, because they well knew that they were stored in my  
 9 home office.  
 10 Q. You were asked about this at 1047, at the top of the  
 11 page you were asked about this, the search for  
 12 documents, and hadn't been able to find contracts of  
 13 employment, and you said they are stored with Helle and  
 14 Barry's solicitors at line 37; correct?  
 15 A. Yes.  
 16 Q. Then at 45 you were asked about: where are all the other  
 17 documents from the business? Yes?  
 18 "All the delivery notes, all the correspondence,  
 19 invoices, mystery shopper reports, anything of  
 20 a sensitive nature, I would never leave the contracts in  
 21 the store where there was no security at the store"  
 22 A. Right.  
 23 Q. You didn't mention any other boxes of documents at the  
 24 store, did you, at that time?  
 25 A. I don't understand what you are talking about.

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1 Q. You told his Lordship that in fact there was another box  
 2 of documents which came up significantly later, in  
 3 May 2013 was the first time it was mentioned, the  
 4 documents, a box which you say was left in store. That  
 5 was the first time you mentioned that box? It was not  
 6 mentioned in interview.  
 7 A. I don't understand why it should have been mentioned in  
 8 the interview. It was a small blue box about that size  
 9 (indicated) standing on a shelf marked "For Godfrey's  
 10 attention".  
 11 Q. Do you accept that the first time it was mentioned was  
 12 in May 2013, three and a half months after disclosure  
 13 had been given in the action?  
 14 A. And only because we were going through the disclosure  
 15 and found that the contents of that box were not in the  
 16 disclosures.  
 17 Q. There were detailed discussions between the parties as  
 18 to the scope of searches in advance of disclosure which  
 19 had been carried out, weren't there? There was  
 20 a detailed schedule in the order. Shall I show you  
 21 that? Does that help? Pick up A, tab 7. The schedule  
 22 to that order, at page 141, is a schedule of searches  
 23 which was agreed following discussions between  
 24 solicitors.  
 25 A. If you say so, yes.

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1 Q. There was no mention of a box at that time, was there?  
 2 A. Where would we have mentioned it?  
 3 Q. In agreeing the scope of the searches and the categories  
 4 of documents to be obtained.  
 5 MR JUSTICE HILDYARD: Did this apply to this witness?  
 6 MR POTTS: My Lord, yes, because he agreed to carry out  
 7 standard disclosure on the same terms as the claimant.  
 8 A. Well, the defendants' disclosure obligations were that  
 9 they would search for documents within the date range of  
 10 August 2005 and February 2012. Which means that they  
 11 would be searching for documents in the office, wouldn't  
 12 they?  
 13 Q. My point is there was no mention of the existence of  
 14 this box until May 2013, that's my point.  
 15 A. Well, I don't understand your point, Mr Potts, because  
 16 this says: "The first defendant will search for  
 17 documents within the date range", and those documents  
 18 would have been in the office. There were three or four  
 19 filing cabinets in the office as well. There were lots  
 20 of files standing behind the main desk in the office,  
 21 which contained many order forms that I had signed for  
 22 the goods and services that are provided. I would have  
 23 expected that if the order was that they would look for  
 24 documents, that would mean all documents, my Lord, or  
 25 was I expected to specify each and every single

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1 document? I wouldn't have thought so.  
 2 Q. If we go back, please, to E4.  
 3 A. Yes.  
 4 Q. You see at line 221 there is a reference to documents in  
 5 store, and at 22 --  
 6 A. 22?  
 7 Q. Sorry, 1053, and line 223, there was an issue concerned  
 8 about changing, alteration of documents, which has been  
 9 put to you.  
 10 At line 223, you said:  
 11 "All the documents were taken to the solicitor when  
 12 we were suspended, so there was no time to change the  
 13 documents."  
 14 Yes? You asserted that that was done in order so  
 15 that you couldn't destroy it, 229.  
 16 A. Yeah.  
 17 Q. And then at 238, you said:  
 18 "All sensitive documents were kept at home."  
 19 Correct?  
 20 A. Yes, and all sensitive paperwork was kept at home.  
 21 Q. You say you boxed up all the papers and took them down  
 22 to your solicitors?  
 23 A. Yes.  
 24 Q. Now, at interview you produced a number of documents  
 25 relating to your own employment: a letter of 1 May;

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1 correct? A letter of 14 May?  
 2 A. If you say so.  
 3 Q. Well, what I put to you is that when the boxes of files  
 4 were recovered from solicitors, none of these documents,  
 5 your employment contract, the 1 May letter, the 14 May  
 6 letter, your contract of employment, and the letter from  
 7 Mr Ferguson, none of those were in the files; correct?  
 8 A. Well, Mr Potts, you are telling me that that's the case;  
 9 I am telling you that, knowing the shenanigans that the  
 10 loss prevention team get up to, I have every confidence  
 11 that those documents were in that file and they would  
 12 have, for their own convenience, removed them so that  
 13 they could continue with this -- to be able to prove  
 14 that they were grounds to conclude that we had committed  
 15 fraud or dishonesty. So I have no doubt. So my answer  
 16 to your question, Mr Potts, is that I have absolutely no  
 17 doubt that those documents were in that file and that  
 18 your client's loss prevention team, who are a bunch of  
 19 thugs, removed it.  
 20 Q. I put it to you, Mr Vos, that that is a nonsense. The  
 21 reality is that were it not for the discovery of the  
 22 forgery of 14 May letter by reason of your incorrect use  
 23 of the letterhead, you wouldn't have expected to be  
 24 caught out in relation to these documents?  
 25 A. There was no forgery.

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1 Q. Let's turn --  
 2 A. Unlike in the Uckfield case where a PAYE slip was forged  
 3 by your client.  
 4 Q. I don't accept that, just for the record, for one  
 5 moment, Mr Potts, but you don't have any evidence to  
 6 give his Lordship on that point.  
 7 A. No, there will be evidence for his Lordship in the case.  
 8 Q. Could I ask you to turn up E2, please? Page 527.  
 9 A. Yes.  
 10 Q. This is the letter dated 1 May. Do you have the letter?  
 11 A. Yes.  
 12 Q. Now, firstly, are you in the habit of writing your wife  
 13 business letters?  
 14 A. Not normally, no.  
 15 Q. Apart from these two letters, are there any other  
 16 examples in disclosure --  
 17 A. In disclosure, yeah.  
 18 Q. -- of documents, business letters written by you to your  
 19 wife?  
 20 A. I don't know, to be honest.  
 21 Q. I think the answer is no. What it says is that you are  
 22 sorry to hear that you have been put under pressure from  
 23 head office on the employment status, and a suggestion  
 24 about moving to payroll. Do you see that in the first  
 25 paragraph?

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1 A. Yeah.  
 2 Q. Then it goes on to talk about saying you are not happy  
 3 about it, and references about head office, you then go  
 4 on to discuss recent problems with Jena Laker and  
 5 Rhonda Rosier grievances?  
 6 A. Mm.  
 7 Q. And then it deals with your salary and overtime, and  
 8 deals specifically with the large number of issues in  
 9 terms of, for example, 5, meetings weekly basis after  
 10 hours; 6, meetings first thing in the morning, review  
 11 with both at the end of the day. Then the penultimate  
 12 paragraph:  
 13 "So as to not take up space, our process invoices  
 14 for payment and other admin tasks from my own office at  
 15 our meeting, so some of the working hours are off site."  
 16 Don't these points look rather contrived to you,  
 17 Mr Vos?  
 18 A. Contrived in the point of view that they were planned at  
 19 the time, and they were planned at the time, Mr Potts,  
 20 because by that time I had realised just the way that  
 21 your client operates, and I was going to make sure that  
 22 my employment was quite clearly laid out, and this was  
 23 also for the benefit of Mr Weller, not just my wife.  
 24 Q. Isn't it the reality that it's remarkable that in this  
 25 letter it happens to deal with the very issues which you

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1 know are in issue in the investigation, namely the fact  
 2 that you don't appear to be doing any work in store, so  
 3 you have to explain what you are doing out of store?  
 4 A. Well, at the time that this letter was written, in 2009,  
 5 it was to make clear what my situation was.  
 6 Q. You referred earlier in your evidence to his Lordship  
 7 about the fact that when you met between the three of  
 8 you, it wasn't necessary to write anything down?  
 9 A. In this particular instance because I was actually being  
 10 put on the payroll, because I was actually then going to  
 11 start working for the company, then I felt it was  
 12 necessary to write the letter, both for my protection  
 13 and for Barry and Helle's protection.  
 14 Q. Isn't the reality that this letter was produced in order  
 15 to corroborate the explanation you gave at the interview  
 16 as to why you had to go on the books but it was written  
 17 later?  
 18 A. No, that's not the reality, Mr Potts, and when we keep  
 19 going on about why I would do this to be on the books,  
 20 if I hadn't written any letters and we hadn't even  
 21 entered into an employment contract, the fact of the  
 22 matter was that I was then employed doing the work, it  
 23 was being charged through, it had been accepted by  
 24 Specsavers through their payroll system, and so the only  
 25 offence, if this hadn't been done at the time, was that

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1 my directors had failed to produce a contract of  
 2 employment. So why would I go to all the trouble? You  
 3 know, according to you, we spent an awful lot of time  
 4 producing so many false documents, for what purpose?  
 5 I mean Dr Poulsen and I -- employed me, and Mr Weller  
 6 employed me. We were working in the company together.  
 7 It didn't affect Specsavers in any way whatsoever. This  
 8 whole thing is contrived to get rid of Dr Poulsen and  
 9 Mr Weller. And that's the reality of it.  
 10 You can come up with all sorts of theories and  
 11 everything else you like about these letters and all the  
 12 rest of it, they were produced at the time when they are  
 13 dated, and you know, what are you trying to prove?  
 14 Q. Can I ask you about this letter? Let's look at the  
 15 first paragraph. You say here:  
 16 "I am sorry to hear that you have had pressure from  
 17 your head office regarding my employment status, in that  
 18 they are not happy about me continuing to act as  
 19 a consultant, and you have informed me that they require  
 20 me to continue to be involved in the company, I need to  
 21 be placed on the payroll."  
 22 A. Yes.  
 23 Q. That's a rather strange statement, isn't it? Firstly  
 24 it's artificial because it's a letter from(sic) your  
 25 wife; correct?

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1 A. Does it say to my wife only, Mr Potts?  
 2 Q. Your wife is a party to the letter?  
 3 A. My wife --  
 4 Q. So is your explanation because it's also to Mr Weller;  
 5 is that right? Is that what you are trying to say?  
 6 A. You keep saying it's to my wife, and that's not true, is  
 7 it, Mr Potts, the letter is to Helle Poulsen and  
 8 Barry Weller. What you keep trying to drop off the  
 9 conversation is Mr Weller, so it looks like it's  
 10 a situation between my wife and I.  
 11 Q. Quite apart from the artificial content, the pressure  
 12 which you are referring to, you are saying, "I am sorry  
 13 to hear that you have had this pressure", you give the  
 14 impression that this has just happened, don't you?  
 15 A. No. I am not giving the impression it's just happened.  
 16 Q. The pressure which in fact had occurred had arisen  
 17 13 months earlier because the BRM was on 18 April 2008  
 18 and the letter from Mr Rowe was 20 May 2008, wasn't it?  
 19 A. And the actual minutes of the meeting, the minutes of  
 20 that meeting were only given to Dr Poulsen I think two  
 21 or three weeks before this. She hadn't had the minutes  
 22 of the meeting which were given to Dr Poulsen and  
 23 Mr Weller by Mr -- arranged by Mr Dyson.  
 24 Q. She had had the letter from Mr Rowe, she accepted, on  
 25 20 May 2008; correct?

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1 A. This letter is written in relationship to the minutes  
 2 that Dr Poulsen received and Mr Weller received in  
 3 April, approximately, 2009. Nothing to do with the  
 4 letter in 2008, it was in response to that letter.  
 5 That's where I picked this up from.  
 6 Q. Hang on, let's break this down. The letter is  
 7 a reference to the meeting which had taken place in  
 8 2008; correct?  
 9 A. The letter is in reference to minutes of that meeting  
 10 which were only produced in 2009.  
 11 Q. Let's go back to -- you have E2 here -- page 371. Do  
 12 you have that? This is a letter dated 20 May 2008  
 13 confirming discussions and agreed actions at the  
 14 meeting; you see that from the first paragraph? The  
 15 meeting took place on 18 April 2008. Let's break it  
 16 down. Firstly the meeting took place on 18 April 2008;  
 17 correct?  
 18 A. Correct.  
 19 Q. The letter sent on 20 May 2008 confirms the discussions  
 20 and agreed actions at that meeting; correct?  
 21 A. To Dr Poulsen and Mr Weller, correct.  
 22 Q. Your wife confirmed that she received this letter at the  
 23 time in 2008; correct?  
 24 A. Correct.  
 25 Q. Yes?

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1 A. Correct.  
 2 Q. And the action plan, 371:  
 3 "You will stop using the services of Optimisation,  
 4 you will meet with Godfrey and arrange for him to be  
 5 employed in the practice."  
 6 Correct?  
 7 A. Correct.  
 8 Q. So the pressure had taken place in April, as you call  
 9 it, in 2008; correct?  
 10 A. The initial pressure, yes.  
 11 Q. Then you are writing on 1 May 2009 saying:  
 12 "I am sorry to hear that you have had pressure from  
 13 your head office regarding my employment, and they are  
 14 not happy with me continuing to act as a consultant.  
 15 You have informed me that if they require for me to  
 16 continue to be involved, I need to be placed on the  
 17 payroll."  
 18 That had all happened in April 2008?  
 19 A. This letter is in reference to the minutes of that  
 20 meeting in 2008, which Dr Poulsen and Mr Weller had  
 21 asked Specsavers for on numerous occasions, and was only  
 22 produced to them in 2009. So there is no correlation  
 23 between this letter and the other letter you are talking  
 24 about, which I tried to explain to you earlier, but you  
 25 have to go back and do this "yes, yes, yes". This is in  
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1 connection with the minutes at the time.  
 2 Q. Are you saying you didn't know about the pressure in  
 3 2008?  
 4 A. I didn't take as much note of it in 2008.  
 5 Q. It doesn't say "I am sorry to hear about the repetition  
 6 of the pressure from 2008 and 2009", does it?  
 7 A. No.  
 8 Q. The position is what this letter is doing is giving the  
 9 clear impression that there has just been pressure  
 10 applied in relation to head office on the employment  
 11 status, when in fact the pressure had in fact come at  
 12 the BRM a year earlier; correct?  
 13 A. Mr Potts, you can interpret it whatever way you say.  
 14 I'm telling you that the letter is in connection with  
 15 a receipt by Dr Poulsen and Mr Weller of the minutes of  
 16 the meeting that they had been asking for all along in  
 17 2009, after the meeting with Mr Dyson in  
 18 Gatwick Airport. So you can twist it as much as you  
 19 like, that's my answer.  
 20 Q. Isn't the reality that you had lost a copy of that  
 21 letter, because you didn't disclose it, we did, and  
 22 after three years, because this is in 2011, you had  
 23 forgotten in fact that the BRM meeting when the pressure  
 24 had been applied had been in April 2008 and not in  
 25 April 2009?

1 A. No.  
 2 Q. Isn't that right?  
 3 A. No.  
 4 Q. And that's why this misleading impression is created,  
 5 isn't it?  
 6 A. No.  
 7 Q. Can you turn up, please, E4? Page 1051, please. Do you  
 8 have that?  
 9 A. Yes.  
 10 Q. Could you read, please, at line 165 through to 177, if  
 11 you read that to yourself?  
 12 (Pause)  
 13 A. Whose document is this?  
 14 Q. This is your interview.  
 15 (Pause)  
 16 Yes?  
 17 A. Yes.  
 18 Q. Okay. This is what you said in the interview --  
 19 A. I don't agree that I necessarily said all this in the  
 20 interview, Mr Potts, but I am reading it to see what you  
 21 have to say.  
 22 Q. Okay, this is what the document says. It says that this  
 23 was all happening at the same time. You said:  
 24 "I used to work as a consultant and the company  
 25 decided I shouldn't be a consultant, I should be  
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1 employed. Susannah Hart and Michael Rowe."  
 2 That's the BRM, isn't it, in 2008?  
 3 A. No, I don't think so, no. Susannah Hart I think was  
 4 some communication between Dr Poulsen and Susannah Hart.  
 5 I don't think Susannah Hart had anything to do with the  
 6 BRM.  
 7 Q. Michael Rowe was at the BRM, wasn't he?  
 8 A. Yes, I understand so, yes, he was.  
 9 Q. He was the one who said that you should be employed;  
 10 correct?  
 11 A. Yes, but we have Susannah Hart interpolated here as  
 12 well, haven't we?  
 13 Q. That took place in April 2008; correct?  
 14 A. Does it say that in the statement?  
 15 Q. In the BRM, the letter we have seen that was April 2008;  
 16 correct?  
 17 A. Let me see. I can't see where I've said anything --  
 18 Q. Not that. I just want you to point -- the April 2008  
 19 was the BRM; correct? With Mr Rowe.  
 20 A. Yes.  
 21 Q. So it says:  
 22 "I said okay, under certain conditions I did not  
 23 want to be employed. At the time, some problems  
 24 occurred in the company you are probably aware of  
 25 including some grievance complaints by staff and  
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1 I sorted out one of them."  
 2 Those were the two grievance matters that took place  
 3 in April 2009, weren't they? Jena Laker and  
 4 Rhonda Rosier, line 172; correct? Yes?  
 5 A. Well, the way I read that, if this could be an accurate  
 6 thing, it says:  
 7 "Right. Well, let's get on to that first. I used  
 8 to work here as a consultant and your company decided  
 9 that I shouldn't be a consultant and that should be  
 10 employed. Susannah Hart and Michael Rowe. So I said,  
 11 that would be under certain conditions I did not  
 12 want to be employed. At the ... time, some problems  
 13 occurred ..."  
 14 So that is related to Susannah Hart and  
 15 Michael Rowe, isn't it? It doesn't say anything about  
 16 a year before some problems occurred in the company that  
 17 you are probably aware of. It says "at the time". So  
 18 it's all at that time, isn't it, in 2009?  
 19 Q. No. That's my point, it is all at the same time,  
 20 Mr Vos, absolutely. You are saying that the pressure to  
 21 put you on the books and the employment issues happened  
 22 at the same time. The problem is that they didn't  
 23 happen at the same time, because you had forgotten, due  
 24 to the passage of time, by 2011, the pressure from  
 25 Mr Rowe was in April 2008, and the issue in relation to

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1 employment was in April 2009. You had conflated them in  
 2 your interview, hadn't you?  
 3 A. All right, so suddenly it's my fault, on the one hand,  
 4 yeah, I produced a document which I have said is on the  
 5 basis of the minutes of the thing that's been received,  
 6 my interview clearly backs that up, but you are now  
 7 trying to twist it into another way by saying I have  
 8 forgotten about the document in April 2008. What are  
 9 you trying to say, Mr Potts?  
 10 Q. Let me put it.  
 11 A. What it seems to be is that, my Lord, like things are  
 12 getting twisted around to suit his case.  
 13 Q. Let me put the point to you again. You accept in  
 14 relation to this interview that you are saying that  
 15 these things are happening at the same time, Mr Rowe and  
 16 Jena Laker. Is that right?  
 17 A. Jena Laker was 2009.  
 18 Q. But the sense of this paragraph, which I showed you in  
 19 interview, is you are saying to the investigators that  
 20 the pressure to put you on the employment and the  
 21 investigation -- the issue, disciplinary matter with  
 22 Jena Laker and Rhonda Rosier had happened at the same  
 23 time?  
 24 A. Yes.  
 25 Q. But they hadn't happened at the same time, had they?

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1 Because the BRM with Mr Rowe was in April 2008, and the  
 2 disciplinary matter with the staff was in April 2009;  
 3 correct?  
 4 A. The fact is that this was related to the minutes that  
 5 were produced in 2009. 2008, I wasn't in the meeting,  
 6 Mr Potts.  
 7 Q. The point is --  
 8 A. I didn't agree anything with Specsavers in 2008.  
 9 Q. The point is, in the interview, at 1057, you are saying  
 10 that these things had happened at the same time; whereas  
 11 in the letter, purportedly dated 1 May 2009, which I put  
 12 to you you created in 2011, you say:  
 13 "I am sorry to hear that you have had pressure from  
 14 head office about the employment status."  
 15 And you know now that the pressure in relation to  
 16 employment status had come in 2008?  
 17 A. I know now, as you say, I know now.  
 18 Q. You know now, the reason is that you had forgotten when  
 19 you were preparing and creating this letter in 2011,  
 20 that you had got the dates wrong?  
 21 A. No. No is the answer. The short answer: no.  
 22 Q. The fact is that you got it wrong, it's two years after  
 23 the event, a year separated the two issues, and you had  
 24 conflated them, and this document is a forgery, Mr Vos?  
 25 A. No, Mr Potts, it's not.

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1 MR JUSTICE HILDYARD: Would that be a convenient moment to  
 2 break?  
 3 MR POTTS: My Lord, yes.  
 4 MR JUSTICE HILDYARD: I will say ten minutes.  
 5 (3.20 pm)  
 6 (A short break)  
 7 (3.30 pm)  
 8 MR POTTS: My Lord, can I deal with one point, your Lordship  
 9 asked me in relation to interviews of staff and so on.  
 10 MR JUSTICE HILDYARD: Thank you.  
 11 MR POTTS: If your Lordship has E5/1229, maybe I can deal  
 12 with this by reference to the notes. That's  
 13 Dr Poulsen's interview. The position is that directors  
 14 are offered the opportunity to have their interviews  
 15 recorded, and Dr Poulsen was offered that and she  
 16 refused, she didn't want it recorded, and so this was  
 17 her interview was noted contemporaneously and then a was  
 18 going to be provided to her afterwards and she would be  
 19 asked to ... Mr Weller was recorded, he agreed to be  
 20 recorded.  
 21 The position in relation to non-director staff is,  
 22 and you can see that in the smaller notes, what happens  
 23 is a contemporaneous note is taken and then the  
 24 statement is provided to them to consider, note, amend,  
 25 and sign off. All those staff members did that. They

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1 dealt with the -- you can see that, for example, in  
 2 E4/997, for example, Mr Verrell. You will see what he  
 3 has done there is, on each page, he has signed off.  
 4 MR JUSTICE HILDYARD: Yes.  
 5 MR POTTS: And then at the end he says:  
 6 "Are you happy that the record of the conversation  
 7 is an accurate record?"  
 8 Can I just check one point, my Lord? (Pause). It's  
 9 typed on a laptop there and then, and they get it  
 10 immediately to consider.  
 11 That's what's happened with Mr Vos, your Lordship  
 12 saw that he has dealt with the first five pages and then  
 13 said "I am not doing any more".  
 14 MR JUSTICE HILDYARD: Yes.  
 15 MR POTTS: So in fact it's not after the event, it really is  
 16 contemporaneous, that it's provided to them for  
 17 approval.  
 18 MR STUART: My Lord, if I can assist? If your Lordship  
 19 looks at page 1046 at line 18.  
 20 MR JUSTICE HILDYARD: I am looking at that, yes.  
 21 MR STUART: I think it answers your Lordship's question  
 22 precisely, because your Lordship wanted to know how this  
 23 was recorded and when and the answer is written there  
 24 for you.  
 25 MR POTTS: I think that's consistent with what I have said,

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1 I hope? Yes, good.  
 2 MR JUSTICE HILDYARD: I am so sorry to have ... I didn't  
 3 know quite what --  
 4 MR POTTS: No, my Lord.  
 5 MR JUSTICE HILDYARD: Sorry to have interrupted you.  
 6 MR POTTS: I am relieved my explanation was consistent.  
 7 If we could move on, then, could you have bundle E2,  
 8 page 529. This is the letter ostensibly dated  
 9 14 May 2009; correct?  
 10 A. Correct.  
 11 Q. This has the same error on the timing, hasn't it, in the  
 12 first paragraph?  
 13 A. Well, I mean, you keep on saying an error in the timing,  
 14 Mr Potts, I've explained it to you, if you want to  
 15 continue with that hammering away at the same old thing,  
 16 then go ahead.  
 17 Q. Again this letter is giving the impression that it's  
 18 responding to something that's just happened, namely SOG  
 19 being unhappy; correct?  
 20 A. Correctly so, yes.  
 21 Q. It is giving that impression, but of course what had  
 22 happened is that you had forgotten by June 2011 that the  
 23 meeting was 2008 and not 2009?  
 24 A. You've asked me this question once before, Mr Potts --  
 25 Q. Could you answer the --

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1 A. How many times are you going to ask me? Because the  
 2 answer is that it was reacting to a document that  
 3 Dr Poulsen and Mr Weller had received, so your answer  
 4 is: no.  
 5 Q. If we go back to the previous letter, the 1 May letter,  
 6 this was not in the file provided to your solicitors, it  
 7 wasn't in the box either, was it?  
 8 A. I've told you that the documents I believe were  
 9 destroyed by the loss prevention team.  
 10 Mr Potts, the loss prevention team took that box  
 11 probably a month after they were told that the box was  
 12 at the solicitors, so if I was going to be so -- provide  
 13 forged documents and I was going to produce all this,  
 14 I had nearly a month to go and put it in the box. Why  
 15 would I say that it was in the box when it wasn't?  
 16 Can't you see that I've got the documents, I produced  
 17 the documents for the loss prevention team, if they had  
 18 only been manufactured for that I would have taken them  
 19 down to, or got Dr Poulsen or somebody to take them down  
 20 and put them in a solicitor's box, wouldn't I?  
 21 Q. 1 May, you didn't need to write a letter like this at  
 22 all to your wife and Mr Weller, did you?  
 23 A. Yes, I did.  
 24 Q. You didn't need to set it out on 1 May at all?  
 25 A. Yes, I did.

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1 Q. There was no other --  
 2 A. By then I knew what skulduggery Specsavers got up to,  
 3 and I wanted to cover myself.  
 4 Q. This document wasn't in this file, was this the only  
 5 version of the letter?  
 6 A. What do you mean was this the only version?  
 7 Q. You would have kept one for your records and the company  
 8 would also need one, wouldn't it?  
 9 A. The company would have had one in its file, yes.  
 10 Q. Now, we requested a copy of the native format of this  
 11 document as well. Do you have F1? Page 206, please.  
 12 28 May 2013. This is document 141. The response, more  
 13 importantly, at page 213.  
 14 A. Yes.  
 15 Q. Item 7 deals with the response.  
 16 A. Item 7.  
 17 Q. Yes. 213, the response given as to why the native  
 18 versions of this was that they were overwritten when the  
 19 template was used to create another document, and also  
 20 that they would only be saved on the USB sticks. We  
 21 have talked about the USB sticks; correct?  
 22 A. Are we talking about document number --  
 23 Q. This is the 1 May document, it's numbered document 141,  
 24 and you see it says:  
 25 "It cannot be produced for the same reasons."

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1 And those are the reasons in the previous paragraph,  
2 that it was overwritten --  
3 A. It says document 143, 142 and 144.  
4 Q. Sorry, if it helps you, the 1 May document is the  
5 document 141. Okay?  
6 A. Mm.  
7 Q. Just before number 8:  
8 "We are instructed that document 141 of the list  
9 cannot be produced for the same reasons."  
10 The reasons are given in the previous paragraph,  
11 which is that the electronic format was overwritten when  
12 the template was used to create other documents.  
13 A. Yes.  
14 Q. Okay. Dealing with the template point, and turning back  
15 to page 527, this isn't a template document, is it?  
16 A. The letterhead would have been a template, yes. The  
17 letterhead part of it --  
18 Q. Which letterhead?  
19 A. The W Godfrey Vos part of it would have been a template,  
20 on a template.  
21 Q. So the whole -- but this is a bespoke letter?  
22 A. Yes.  
23 Q. You are saying that this was overwritten?  
24 A. Well, I mean, certainly the document didn't exist any  
25 more, because that's 2009, and it was either overwritten

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1 or it would have been deleted.  
2 Q. In relation to the USB sticks, that wasn't mentioned  
3 during the investigation, was it, their existence?  
4 A. Why would it have been necessary to mention it at the  
5 investigation?  
6 Q. Rather than asking questions, could you answer the  
7 question?  
8 A. I'm trying to find out the reason why you are asking the  
9 question, Mr Potts, if that's okay.  
10 Q. No, that's not okay, I am asking you a question, I would  
11 like you to answer it.  
12 A. What?  
13 Q. The question is: you didn't mention the existence of the  
14 USB drives during the investigation in 2011, did you?  
15 A. No.  
16 Q. You didn't mention them in your complaint about the  
17 investigation, which also covered the deletion of data,  
18 either, did you?  
19 A. My complaint covering the deletion of data, can you  
20 point me to that?  
21 Q. Yes, sure, E4/1067. We have looked at this before.  
22 This is the allegation, your grievance complaint, on  
23 7 July.  
24 A. Yes.  
25 Q. The existence of documents and deletion of documents was

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1 dealt with at page 1069, which we have looked at before.  
2 A. Mm.  
3 Q. You didn't mention the existence of USB drives on which  
4 documents would be found in that either, did you?  
5 A. Why should I, Mr Potts?  
6 Q. Because you are dealing with the deletion of documents,  
7 and what your solicitors are saying is that templates  
8 were overwritten, but the electronic copies would have  
9 been saved onto the USB sticks. So given that, if there  
10 was an issue about deletion of documents and the  
11 existence of documents, you could have mentioned it at  
12 that point; you didn't mention the USB sticks, did you?  
13 A. No, I didn't.  
14 Q. You didn't mention it in your lengthy rebuttal of the  
15 allegation in relation to forgery of documents?  
16 A. No, I didn't think it was relevant to mention the USB  
17 sticks in my rebuttals and all the rest of it, Mr Potts,  
18 because I expected that by then the loss prevention team  
19 would have found the USB sticks and other documents, and  
20 dealt with them.  
21 Q. And in relation to this timing point that you raised  
22 earlier as to when the file, you would have been able to  
23 deal with these matters in the file, the discovery of  
24 the forgery did not take place until after your  
25 investigation interviews, did it?

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1 A. First of all, there was no forgery, Mr Potts, so the  
2 discovery of whatever you would like to say, I don't  
3 know when it took place.  
4 Q. The allegations were put to you not at the interview but  
5 later, weren't they?  
6 A. Later?  
7 Q. In the investigation report, which you received in  
8 September; correct? That's what the allegation of  
9 forgery of these documents was put to you, because it  
10 was at that point that the point about the letterheads  
11 in the 14 May document had been noticed; correct?  
12 A. Correct.  
13 Q. So at that point, it wouldn't have been open to you to  
14 go back to the files, would it, because they had been  
15 recovered by that point from your solicitors?  
16 A. What I am saying to you, Mr Potts, is that if I was keen  
17 to produce this great big forgery of all these documents  
18 at the time, I would have ensured that they were in the  
19 box, wouldn't I?  
20 Q. The point is --  
21 A. Because the letter in the box, let's go back to the  
22 letter in the box, the letter that's supposed to be  
23 a forgery, which is number 529, was a letter that wasn't  
24 on a letterhead. Because it was an office copy. That  
25 office copy was taken to produce this document. So if

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1 I was so keen to produce a forged document, because  
 2 these documents were down at the solicitors for such  
 3 a long period of time, I would have taken a file down to  
 4 the solicitor and put it in the file, so that when  
 5 Specsavers picked it up, it was there. So I don't  
 6 understand your logic on all this.  
 7 Q. Okay, let me put the logic to you, Mr Vos. You produced  
 8 these documents at your interview, for the first time,  
 9 they were then looked at, and after the interview the  
 10 issue about the logo and the registered office was  
 11 pointed out, the allegation of forgery was put to you in  
 12 September. That was the first time that you realised  
 13 that you had been caught out. It was in September. But  
 14 by that point you couldn't go back to the files, could  
 15 you, because they had been picked up; correct?  
 16 A. Mr Potts, what you are saying is that all these  
 17 documents are forgeries, so they would have been  
 18 produced for the meeting on 1 May 2009, so therefore  
 19 it's got absolutely nothing to do with the investigation  
 20 report that came back in September, because if I was  
 21 a clever forger, I would have taken copies of these  
 22 documents down to the solicitors before the box was  
 23 picked up, so that there was a set of documents in  
 24 there. But as there were already a set of documents  
 25 which your client has removed for its own convenience,

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1 it wouldn't have been necessary for me to do that. So  
 2 your statement that the investigation report  
 3 highlighting this alleged forgery would have caused me  
 4 to run down and get the document back again, and  
 5 whatever, I don't understand what you are actually  
 6 saying. One thing doesn't relate to the other, does it?  
 7 Q. Let's run through it. The documents are dated May 2009  
 8 but my point is they were not created in 2009 at all,  
 9 they were created for your investigation interviews in  
 10 the end of June and July 2011. You produced them for  
 11 the first time at that interview; correct?  
 12 A. That's not true, Mr Potts, and you have no evidence to  
 13 prove otherwise.  
 14 Q. Well, you produced them to the investigation at that  
 15 interview; correct?  
 16 A. I copied them for the investigation --  
 17 Q. And you brought them along --  
 18 A. -- yes, they were produced in 2009.  
 19 Q. Right. They were then taken away, and the point about  
 20 the creation of the document of 14 May was picked up,  
 21 and it was put to you in the investigation report which  
 22 you received in September; correct?  
 23 A. It wasn't put to us, Mr Potts, all we received was  
 24 an investigation report making the allegation.  
 25 Q. Okay, so you became aware of the allegation in

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1 September; correct?  
 2 A. And I all I did was rebut it -- I rebutted it at the  
 3 time.  
 4 Q. You did, and you rebutted it, and we will come on to  
 5 that in a moment. The point was that by the time you  
 6 did your rebuttal and indeed you had been told of the  
 7 allegation, it wasn't open to you to go back to the  
 8 file, because it had been picked up from your  
 9 solicitors?  
 10 A. Why would I want to?  
 11 Q. Because you had been caught out and you couldn't.  
 12 A. That still doesn't make any sense. I am sorry, my Lord,  
 13 that makes absolutely no sense at all. I have suddenly  
 14 been caught out, why would I have wanted to go back to  
 15 a document which I knew was already in the file?  
 16 I would want to go and take another copy and put it on  
 17 another letterhead? I just don't understand the reason  
 18 for that question, my Lord. The file was in the box,  
 19 and this letter, which my Lord can see at 529, was on  
 20 a blank piece of paper, and I didn't have my copy,  
 21 I couldn't find my copy of it. So Dr Poulsen went down  
 22 and picked up the employment file, I understand, and we  
 23 photocopied that blank document which was the staff file  
 24 document, on to this letterhead, then I got them to sign  
 25 it for me again. It's very simple. Why would we

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1 subsequently want to go and put the file back in there  
 2 or something? I don't understand your questioning, or  
 3 the reasoning for it. You are trying to cause  
 4 confusion, aren't you?  
 5 Q. The point I'm putting to you, Mr Vos, is that you didn't  
 6 expect to get caught out. What you failed to appreciate  
 7 was that you got caught out because of your use of the  
 8 wrong letterhead, on page 529.  
 9 A. It's probably before your time, Mr Potts, but there used  
 10 to be a time when one used to have long playing records,  
 11 and I have been giving you an explanation now for the  
 12 last ten minutes, and you, like a broken groove in  
 13 a long playing record, seem to be coming back to the  
 14 same thing all the time. I don't see the logic of your  
 15 questioning.  
 16 Q. I think you do, Mr Vos. You may not accept the  
 17 conclusions, but I am putting to you, and this is  
 18 a serious matter, you are giving evidence to  
 19 his Lordship under oath, that this document was  
 20 a forgery and you were caught out?  
 21 A. It wasn't a forgery, my Lord, I give you that under  
 22 oath, it was not a forgery, it was produced on  
 23 1 May 2009, as was the other document on 14 May 2009,  
 24 and Mr Potts can play around with it as much as he wants  
 25 to, that is the truth of the matter, sir.

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1 Q. Let's look at the letter of 14 May. We have referred to  
2 the first paragraph in the statement about head office  
3 being unhappy, and you accept that this document was in  
4 fact created in, whenever it was, June or probably late  
5 June 2011; correct?  
6 A. The original document was created on 14 May 2009.  
7 Q. This document at 529?  
8 A. The copy of that letter of 14 May 2009 was created in  
9 2011.  
10 Q. It is not just a copy, is it? Because you got your wife  
11 and Mr Weller to sign this document, didn't you, in  
12 2011?  
13 A. Yes.  
14 Q. So they knowingly participated in a conspiracy, frankly,  
15 to pervert the course of the investigation by  
16 misrepresenting this document?  
17 A. No, they did not.  
18 Q. When you produced this document, you didn't mention that  
19 it was a recent production, did you?  
20 A. No, I did not.  
21 Q. That admission only came once you saw the findings of  
22 the investigation report, where it had been spotted that  
23 it was a forgery?  
24 A. Well, all the documents that were produced in the  
25 investigation were copies of an original, as that one

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1 was. So all the documents were photocopied in 2011, and  
2 taken to the investigation. Why would I have said to  
3 them, "Excuse me, Mr McAlindon", while he is sitting  
4 threatening me, "but this document was photocopied  
5 a week ago" or two weeks ago?  
6 Q. This was not a photocopy, though, this was a signed  
7 copy, isn't it?  
8 A. The copy you have is a photocopy, isn't it?  
9 Q. The signatures were signed; correct?  
10 A. They are copies, the document is a photocopy.  
11 Q. It was signed --  
12 A. Copies given to Mr McAlindon were photocopies, they  
13 weren't originals. I have the original.  
14 Q. I see, so it was freshly signed in 2011; correct?  
15 A. This number, 14 May document, number 529, was freshly  
16 signed.  
17 Q. Yes.  
18 A. As we had done many times in the past for other  
19 employees at the store who had lost copies of their  
20 employment contracts or letters, they would come and ask  
21 us if they could have a new one, and we would photocopy  
22 it from our original file onto a letterhead, sign it  
23 again and give it to them.  
24 Q. So this was just you tidying up your employment file,  
25 was it?

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1 A. This was me tidying up the file I had.  
2 Q. But you didn't mention that when you produced it at  
3 interview?  
4 A. Why should I?  
5 Q. Because it had just been signed, it was hot off the  
6 press?  
7 A. Mr Potts, all right, we didn't mention it, okay, does  
8 that satisfy you?  
9 Q. If this was something perfectly normal, why didn't you  
10 mention it at the interview, and say "Actually, for the  
11 sake of completeness, this document, I only got it  
12 signed last week"?  
13 A. I would very much like you to go to an interview with  
14 a member of the loss prevention team of Specsavers,  
15 Mr Potts, and see what you are permitted to say and not  
16 permitted to say, while they bully you through the  
17 process. So it all sounds very reasonable sitting here  
18 in a courtroom, but when you are sitting in front of  
19 Mr McAlindon, who is this distance away from you with  
20 his laptop menacing you, you don't -- I mean, in some  
21 cases female directors of companies have actually  
22 fainted at meetings that he has taken. So, no, I didn't  
23 expect I would sit there and say "Oh, by the way,  
24 Mr McAlindon, this copy has only just been signed in the  
25 last few days".

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1 Q. Why did you need to produce these two documents at the  
2 interview? You brought along your contract, isn't that  
3 the relevant document you would say?  
4 A. Yes, it is, and you notice that the logo on that,  
5 Mr Potts, is the old logo, so are you suggesting that  
6 this one also was created?  
7 Q. The point is that what you needed to produce along with  
8 documents at your interview was documents to bolster  
9 your position in relation to what you had been doing,  
10 and as to the reasons why you had come on to become  
11 an employee, and that is what these two letters were  
12 doing, because you had to show that you had in fact been  
13 working hours outside the store, and that's what these  
14 two documents were created to do, weren't they?  
15 A. Well, why would I need to do that because of this  
16 employment contract? My employment contract, in  
17 conjunction with what was being paid, would have been  
18 sufficient, wouldn't it? Minimum three days per week,  
19 flexible three and a half hours, plus 12 additional  
20 working days per annum to cover the retail directors'  
21 holidays. Work a minimum of 24 hours a week, lunch  
22 break half an hour, 15 minutes breaks. Basic of 33,600  
23 et cetera, overtime rate as agreed by the directors from  
24 time to time. It's all in there, isn't it? So why  
25 would I want to go and manufacture new documents to

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1 support this?  
 2 Q. Because, as I put it to you already, you needed to try  
 3 and create evidence to try and bolster the position as  
 4 to what you might have been doing during your hours.  
 5 A. I didn't need to create evidence to show what I had been  
 6 doing, Mr Potts. My co-directors, Mr Weller and  
 7 Dr Poulsen, knew exactly what I was doing, some --  
 8 somebody coming in from Specsavers making allegations  
 9 not knowing, not having been there, intimidating staff  
 10 to produce witness statements, for the purposes  
 11 basically to get rid of Dr Poulsen and Mr Weller,  
 12 doesn't make it what you say.  
 13 Q. Your answer is you provided no explanation in relation  
 14 to this letter of 14 May until you were caught out. If  
 15 you had thought it was perfectly okay, you would have  
 16 mentioned it at interview, wouldn't you?  
 17 A. No.  
 18 Q. You provided then a rebuttal to this allegation, which  
 19 you will find at E6/1391.  
 20 A. Yeah.  
 21 Q. Paragraph 3 is your explanation in relation to the  
 22 existence of your employment file. Yes?  
 23 A. Yes.  
 24 Q. You say:  
 25 "The file was taken down for safekeeping to [your]

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1 solicitors soon after suspension. A few days later  
 2 Dr Poulsen was asked to come down to collect some pages  
 3 from the file because when looking through his own  
 4 personal records he couldn't find some of the  
 5 documentation and he required some of the file to be  
 6 photocopied so he had a complete file. She took the  
 7 relevant pages away, one of which was the file copy of  
 8 his initial employment letter."  
 9 I think that's probably the 14 May.  
 10 "This was photocopied onto a letterhead and the file  
 11 copy returned to the solicitors and placed back in the  
 12 file within half an hour, they re-signed it, so he had  
 13 a complete record of the file. Mr Vos was the first to  
 14 be interviewed", and you provided the full copy of the  
 15 records. You said that Mr Barnes was responsible for  
 16 deliberately losing the file, and you said:  
 17 "As to the solicitors who photocopied that file for  
 18 legal counsel, they will be in a position to testify  
 19 that the file was in one of the boxes among the staff  
 20 employment files which was collected."  
 21 Yes?  
 22 A. Yes.  
 23 Q. So the first point we have already dealt with as to why  
 24 this letter was not necessary, because you have got your  
 25 contract apparently; correct? So why did you need the

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1 letter?  
 2 A. Precisely, that's the question I would ask you.  
 3 Q. The second point as to why it wasn't necessary for you  
 4 to do all this is your solicitor could apparently have  
 5 simply provided the investigation team with the copy  
 6 from the file, couldn't they?  
 7 A. Well, the file was in the box, so why would they want to  
 8 give them another copy?  
 9 Q. Why was it necessary to photocopy this letter on to  
 10 a new letterhead and sign the document when, according  
 11 to your case, the file copy was already in the box  
 12 provided to your solicitors?  
 13 A. (Pause). No, I don't understand what your question is.  
 14 Q. Why was it necessary to go through this complex exercise  
 15 of getting the document, putting it onto a letterhead,  
 16 getting it re-signed, where the file copy, according to  
 17 your case, was already in the file held by your  
 18 solicitors?  
 19 A. The file copy was on a blank page.  
 20 Q. But it was a copy of the letter?  
 21 A. So?  
 22 Q. So you could have said to your solicitors, "Can you  
 23 please provide the file copy, which is in the file we  
 24 have given to you, immediately and provide it to  
 25 Specsavers along with an explanation"? Why did you have

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1 to go through this complex exercise of creating this new  
 2 document?  
 3 A. I don't understand what you are talking about, Mr Potts.  
 4 Why would we go to our solicitors and say "Provide this  
 5 copy to Specsavers, blah blah blah"? We needed a copy  
 6 of the document to take with us to an interview. Our  
 7 solicitors weren't involved in the investigation process  
 8 at all. They were busy dealing with Mr Moore about  
 9 other things, about the necessity for the way that  
 10 Specsavers was acting. So why would the solicitors be  
 11 involved? I don't understand what you are saying. We  
 12 went to the solicitors to get a copy of it, so that  
 13 I could have a complete file. Specsavers already had  
 14 their complete file, my Lord, I wanted it for my record  
 15 because I couldn't find that particular page. I needn't  
 16 have produced any of it to Specsavers, I could have said  
 17 to them "go and get it out of the box", and I took it  
 18 along to be helpful for the investigation. For no other  
 19 reason.  
 20 Q. The point you make at the bottom of the page is that  
 21 your solicitors had photocopied the file for counsel and  
 22 placed it in the box so that they could testify as to  
 23 the file and indeed every other document being in the  
 24 file. You could have asked your solicitors to confirm  
 25 the file copy was in the box, couldn't you?

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1 A. When we asked our solicitors if they had photocopied it,  
 2 we understood that they had photocopied it but when we  
 3 asked them, they told us that all they had photocopied  
 4 was the joint venture partnership, Dr Poulsen and  
 5 Mr Weller's service contracts, and all the other  
 6 shareholders' agreements, et cetera, because although  
 7 I did go to counsel with them, counsel was more  
 8 interested in not the minutiae of my employment, he was  
 9 interested in the shareholders' agreement.

10 So they confirmed to us afterwards that they had not  
 11 actually photocopied that file but they had photocopied  
 12 the joint venture agreement, the shareholders'  
 13 agreement, the service contracts of Mr Weller and  
 14 Dr Poulsen, and various other documents which related  
 15 purely to the relationship between Specsavers and the  
 16 two of them.

17 Q. I put it to you that's remarkably convenient, Mr Vos,  
 18 and the reality is that you were caught out, your  
 19 solicitors didn't photocopy this document because it  
 20 wasn't in the file, it didn't exist?

21 A. It does exist, Mr Potts, and it was snaffled by  
 22 Mr Barnes.

23 Q. And it was also unnecessary for you to go through this  
 24 complex task of fabricating this document onto the  
 25 letterhead if, as you said, that your solicitors had the

1 original file note in the file; they could have produced  
 2 it to the investigation?

3 A. Why would they want to produce it to the investigation?

4 Q. Could you answer the question, rather than asking one,  
 5 please, Mr Vos?

6 A. Well, I don't understand the question, so could you  
 7 explain the question to me, please?

8 Q. I put it to you it was not necessary for you to go  
 9 through the exercise of creating this document if, as  
 10 you say, your complete file had been delivered to your  
 11 solicitors promptly, they would have held it and could  
 12 have confirmed that the file note, which was never  
 13 produced, had in fact been on the file all the time;  
 14 that confirmation has never been provided, has it?

15 A. I still can't give you an answer to that because  
 16 I really don't know what you are saying.

17 Q. Well, your solicitors have never confirmed that the file  
 18 note was on the file all the time, have they?

19 A. What file note are you talking about now?

20 Q. The file copy which is not on the letterhead.

21 A. Why should they?

22 Q. Because there is an allegation in these proceedings that  
 23 it's a forgery.

24 A. The document, the documents were in the filing boxes,  
 25 Mr Potts, your client went and picked them up, our

1 solicitors didn't sit and analyse them, because in the  
 2 process of that we were changing solicitors anyhow.  
 3 They didn't sit and analyse all the documents in the  
 4 file. All they took out of the box was the  
 5 shareholders' agreements, in fact I think we gave that  
 6 to them in a separate box, so you know, why would they  
 7 have wanted to take the documents out? Why would they  
 8 have needed to confirm it? Because it was my copy. All  
 9 I wanted is a copy of my letter, my record, and I took  
 10 my record with me to assist in the investigation.  
 11 I needn't have taken any records with me, none.

12 Q. So what's said in the final three lines is wrong. What  
 13 about the point about what documents your wife actually  
 14 picked up from the file, further up in that paragraph?  
 15 Is that also wrong as well?

16 A. Well, my wife testified that she took the whole file,  
 17 and I accept that she did it, because I didn't actually  
 18 look to see what documents -- what the file looked like  
 19 when she brought it back.

20 Q. So this is a contemporaneous document produced on  
 21 26 September, right at the time when this issue was  
 22 live, and conveniently two of the matters which are your  
 23 key defence in relation to this allegation of  
 24 fabrication of a document in this paragraph are wrong;  
 25 is that right?

1 A. No. It's not like that. It's not like that, because as  
 2 I've said to you, we thought -- at the time when this  
 3 was written, we thought that our solicitors had  
 4 photocopied it.

5 Q. And you also thought that only an excerpt of the file  
 6 had been taken by your wife, but that was wrong too;  
 7 correct?

8 A. Well, whatever my wife took, she took. She claims she  
 9 took the whole file and I believe that she took the  
 10 whole file. I didn't look to see what was in the file.  
 11 All I was interested in was the one page, which she  
 12 brought back and she photocopied and gave me the page.

13 Q. Mr Vos, these were serious allegations being made. Did  
 14 you not think that your answer needed to be a serious  
 15 answer and to be accurate?

16 A. My answer was a serious answer, Mr Potts.

17 Q. It wasn't accurate, was it?

18 A. Well, there is lots of things that are not accurate in  
 19 Specsavers' case.

20 Q. Did Dr Poulsen check this letter before it went out? It  
 21 was important.

22 A. What did you mean, did she check it before it went out?

23 Q. Did she read it before it went out?

24 A. Which letter?

25 Q. This letter. This rebuttal.

1 A. I think that we all three sat down together, yes.  
2 Q. This was a serious issue, both of those points were  
3 wrong, were they?  
4 A. Well, if you say so, Mr Potts.  
5 Q. So you all got them wrong?  
6 A. Yes, I still don't see what you are trying to prove, but  
7 this is what we have said, and that's what we said.  
8 Q. I put it to you that the problem with creating forgery  
9 like this is that it starts getting complicated once it  
10 starts to unravel, and this is what it was doing, this  
11 whole thing was unravelling for you, wasn't it?  
12 A. No, it wasn't.  
13 Q. You have made a mistake in relation to the timing, as to  
14 the complaints about putting --  
15 A. No, I didn't, I have explained that, you keep on coming  
16 back to the same old thing again, Mr Potts, I have  
17 explained that. If you say it to me often enough,  
18 I might get brainwashed into saying yes to you.  
19 Q. The same goes for the contract at E2/530.  
20 A. Are you finished with E6 now?  
21 Q. Yes. You would have had your own signed copy of that  
22 contract, wouldn't you? (Pause). Correct? Sorry, 530.  
23 A. Yes, I had my own signed -- I didn't ask for that one to  
24 be copied.  
25 Q. So you didn't get the company's copy from the file?

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1 A. Sorry?  
2 Q. You didn't get the company's copy for that file copied  
3 as well?  
4 A. No, I copied this from my own file.  
5 Q. There was no contract in the boxes either, was there?  
6 A. There were contracts in the boxes, Mr Potts. You keep  
7 saying the same thing, I keep telling you that it had  
8 been taken out and obviously destroyed by Mr Barnes.  
9 There was a contract in the file, I don't know how many  
10 times you would like me to repeat the same answer.  
11 There was a contract in the file. Once again, if you  
12 keep on asking the same question, hopefully you think  
13 that you are going to brainwash me into giving you  
14 another answer.  
15 Q. Isn't it more likely that whilst you were on the  
16 payroll, given that it was your wife and Mr Weller as  
17 the directors, you didn't bother with formal letters  
18 offering employment and indeed employments either, isn't  
19 that more likely?  
20 A. That's not true because there is not one member of staff  
21 that didn't have an employment contract, and I don't see  
22 why I should be any different to the rest of the staff.  
23 Why should I not an employment contract when every  
24 single -- when I produced employment contracts for over  
25 100 employees in the time that I have been there. Why

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1 would I think to myself: oh, well, I won't bother doing  
2 one for me?  
3 Q. Isn't the reason that you felt the need to put this  
4 suite of documents in place when the investigation  
5 began, and you needed to explain how you could have been  
6 working the hours that you were contracted for?  
7 A. No.  
8 Q. You created this suite of documents?  
9 A. No.  
10 Q. There were no overtime records for you, unlike every  
11 other employee?  
12 A. That's not true, there were no overtime records for  
13 quite a number of employees, I have already said that to  
14 you.  
15 Q. It was consistent with a degree of informality in  
16 relation to your own employment, wasn't it? You were  
17 the boss's husband.  
18 A. I had two bosses. I wasn't Mr Weller's husband.  
19 Q. You didn't bother putting yourself on the rotas either,  
20 did you?  
21 A. The rotas, as explained in the rebuttal statement, in  
22 the staffroom which your clients refer to were rotas  
23 purely for the sales staff. Other people not on those  
24 rotas were the lab technicians, and they weren't on the  
25 rotas either, but I was on the other rota which was

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1 a staff holiday rota. So those are lies.  
2 Q. You didn't provide, you have talked about there was no  
3 overtime records for yourself unlike other employees;  
4 correct?  
5 A. I didn't what?  
6 Q. There were no overtime records for you; correct?  
7 A. There were no overtime records for me. Mr Weller and  
8 I would sit down at the computer and discuss it. We  
9 would discuss it at one of our meetings, and Mr Weller  
10 and I would go in and put the overtime on, as we did for  
11 the other staff, Mr Potts.  
12 Q. And there were no documents either justifying your bonus  
13 levels, were there?  
14 A. My bonus levels were in terms of my contract, as  
15 I believe it. As long as the -- I managed to keep the  
16 turnover up above £1.5 million a year, I was entitled to  
17 certain bonuses.  
18 Q. And the level of bonus was discretionary to some extent,  
19 was it not?  
20 A. Well, the bonus that we paid was basically dependent on  
21 what we thought there was available in the company at  
22 the time.  
23 Q. There is no document to justify that?  
24 A. Up to £15,000 a year.  
25 Q. Prior to your employment --

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1 A. What documentation would you expect, Mr Potts?  
 2 Q. I would prefer it if you answered questions rather than  
 3 asking them.  
 4 Prior to your employment you were happy to sign off  
 5 your own invoices as well, weren't you?  
 6 A. Only with the permission of the directors of the  
 7 company.  
 8 Q. All of those matters show a level of informality in  
 9 relation to your own arrangements, don't they, Mr Vos?  
 10 A. No, because they were all properly formally dealt with  
 11 at meetings between us. Just because you don't write  
 12 something down on a piece of paper, Mr Potts, doesn't  
 13 mean that you through the formalities of dealing with it  
 14 properly.  
 15 Q. Let's move on to Mr Ferguson. I want to ask you a few  
 16 questions about the payments made to Mr Ferguson between  
 17 April 2006 and June 2011. Yes?  
 18 A. Right.  
 19 Q. Okay? You say your position is that there were  
 20 substantial cost savings to be made through using him;  
 21 is that right?  
 22 A. Yes.  
 23 Q. In fact, some £93,811 were paid to Mr Ferguson during  
 24 that period?  
 25 A. Over six years.

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1 Q. Yes. It's £18,000 per annum.  
 2 A. Yes.  
 3 Q. On average. Or £1,300 per month?  
 4 A. Yes.  
 5 Q. You were aware of the payments and agreed them?  
 6 A. All three of us were aware of the payments and agreed  
 7 them.  
 8 Q. Okay, can we pick up E7? These are two schedules, 1676.  
 9 A. Yes.  
 10 Q. These were again documents which you produced at your  
 11 interview?  
 12 A. Yes.  
 13 Q. In interview you didn't specifically indicate that they  
 14 were recent productions, did you, you just produced  
 15 them?  
 16 A. I think that's the case, yes, I think I just produced  
 17 them.  
 18 Q. Can I ask you about the first document, 1676? It is  
 19 saying it is a schedule. Weekly normal requirements,  
 20 £240 retention a week. It says:  
 21 "Attend store after hours twice a week to ..."  
 22 And there is a whole list of things, saying:  
 23 "Take all patient records, bring out any files, sort  
 24 out files, ensure ..."  
 25 These are instructions, aren't they, drafted as

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1 instructions?  
 2 A. That's what we sat down and looked at, yes.  
 3 Q. At the bottom of the page:  
 4 "You will cover the reasonable cost of materials and  
 5 travelling out of your fee. If major work is to be  
 6 carried out, speak to us about sourcing. Provide with  
 7 us notice if you are not going to be available any  
 8 week."  
 9 A. Yes.  
 10 Q. Then extra call-out requirements. All of this is  
 11 drafted and it gives the clear sense that it's  
 12 a document provided at the time you are going over to  
 13 this 24-hour retention, which is in 2009, as to what he  
 14 is required to do during that period, isn't it? That's  
 15 the sense of it?  
 16 A. It's a document we produced for the interview.  
 17 Q. You have not answered my question. The sense of the  
 18 document, it's talking about "you will cover the  
 19 reasonable costs", it's not saying "in 2011 this is what  
 20 he did, this is what he was required to do at the time".  
 21 Do you see that? "You will cover the reasonable costs  
 22 and materials"?  
 23 A. Yes.  
 24 Q. You see that?  
 25 A. Yes.

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1 Q. On the second page, there is some narrative in relation  
 2 to matters, but we have seen before from the notes, if  
 3 you go back to E4, that in relation to allegedly  
 4 contemporaneous documents, you were quite used to  
 5 providing some background before giving the  
 6 contemporaneous statement. If you look at 859, these  
 7 are the notes which were prepared of the meeting in  
 8 March 2011. Do you have E4?  
 9 A. Yes.  
 10 Q. Here this is saying:  
 11 "Notes of the meeting at 861" and it goes on and  
 12 provides notes of the meeting.  
 13 Then there is all sorts of background before it but  
 14 this is ostensibly a contemporaneous document produced  
 15 at that time; correct?  
 16 A. Mm.  
 17 Q. Put that one away. You will recall that when your wife  
 18 was in court, she confirmed in her interview, we saw  
 19 that the other day, that this was the checklist that  
 20 Mr Ferguson was required to go through at the time, in  
 21 2009, not 2011, and that's the clear sense of these  
 22 first two pages, isn't it?  
 23 A. I don't think she did confirm that, Mr Potts, I think  
 24 you sort of tricked her into an answer which Mr Stuart  
 25 corrected.

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1 Q. Do you accept that the sense, if you look at the first  
2 page and talking about "you will cover the reasonable  
3 costs, you will provide us with a note of you are not  
4 going to be available", that is giving the clear  
5 impression as to what he was required as at 2009 to do  
6 in the future, not at 2011 what he did in the past? Do  
7 you accept that?  
8 A. It was a document that we sat down, I believe, and  
9 created for the purposes of the interview.  
10 Q. If you go on, by way of comparison, to 1678, this is  
11 a document which you can see says:  
12 "Some of the work carried out by Mr Ferguson, mostly  
13 carried out after hours at night or on a Sunday."  
14 Here we have not "removal desk", it's "removed".  
15 The tenses changed all the way through here. It's moved  
16 into the past. 21 "took away desk". Do you see?  
17 A. Yes, one of the documents is what we considered to be  
18 what his work schedule would be and the other document  
19 is what we had considered he had done, what we tried to  
20 sit down and think about what he had done, and this  
21 doesn't cover everything he had done, it was what we  
22 could think of quickly at the time, because we were  
23 looking back over a six-year period.  
24 Q. Because as you can see from 1678 you were concerned  
25 because you realised, just as in relation to the

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1 inadequacies of your own time at the store, that there  
2 was a problem with Mr Ferguson, so you had to show why  
3 he was doing work after hours at night or on a Sunday,  
4 because you knew that the staff would be saying that  
5 they hardly saw him, just like they hardly saw you?  
6 A. All right, Mr Potts.  
7 Q. Could you answer the question?  
8 A. What is the question?  
9 Q. The question is: you felt you had to produce  
10 a justification -- in a similar way that you produced  
11 a justification for your own hours, you had to do the  
12 same for Mr Ferguson?  
13 A. Well, let's put it this way: your clients had written to  
14 us saying that there was a problem with the allegations  
15 of financial irregularities related to payments to me  
16 and payments to Mr Ferguson. Of course we would sit  
17 down and try and remember what he had done. As I've  
18 said to you, this is by no means everything he did,  
19 because this is all the three of us sitting down  
20 together could remember, and the first document would  
21 have been what we sat down and said "this is what we  
22 would have told him to do", so we wrote it down on the  
23 basis of what we would have told him to do.  
24 Mr Ferguson wasn't somebody that would say to you --  
25 you would give a schedule to and say "Over the next

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1 few weeks do this, that and the other", we had to  
2 basically tell him all the time how to do it and what to  
3 do.  
4 Q. Just look at 1676, the bottom of the page:  
5 "You will recover the reasonable costs of materials  
6 and travelling out of your fee ... provide us with  
7 notice if you are not going to be available any week."  
8 The clear impression of that wording is a statement  
9 as to the future, as to what he should do in the future,  
10 not what he had done in 2011 --  
11 A. That's what I would have said to him at the time, so  
12 what we did was create a document or have a document  
13 which is as though it was being given to him.  
14 Q. At the time?  
15 A. No, I would have told him these things at the time, we  
16 wouldn't have necessarily written it down at the time.  
17 Q. It doesn't say "We told him that he had to cover the  
18 reasonable costs of materials out of his fee and he had  
19 to provide us with notice if he was not going to be  
20 available any week". It says "You will cover the  
21 reasonable costs"?  
22 A. I am terribly sorry you put it in a way you don't like  
23 it, Mr Potts, but that was the reason for it.  
24 Q. I put it to you that this was misleading, and your wife  
25 represented that this was the schedule which he had at

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1 the time, and that's what she did in interview?  
2 A. Well, I understood that that had been corrected, but no,  
3 the answer is no, so we will just leave it there, shall  
4 we, or do you want to ask me again in another way?  
5 Q. Now, there is a number of references, a lot of these  
6 matters didn't need to be done after hours or at night,  
7 collating materials, moving a telephone, and so on, did  
8 they?  
9 A. Well, they were things like the roof of the building,  
10 and when there was broken in through a roof a number of  
11 times, wasn't done in the night, it was done in the  
12 daytime, and Mr Ferguson would have been up on the roof.  
13 So the chances of staff witnessing him up on the roof  
14 would have been very slim anyhow. In fact a lot of  
15 staff used to say to us, "Oh, do you know there's  
16 somebody up on the roof" and he would have been up  
17 there.  
18 Q. There are a number of references to redecoration. The  
19 evidence of Mr McAlindon was that he didn't see any  
20 signs of redecoration or recent work at the store?  
21 A. Well, that's a lie, another one of Mr McAlindon's lies.  
22 Q. Can you pick up volume C, please?  
23 A. Do I put E7 away or do you want me to keep it out?  
24 Q. Keep it out, please. There is a summary at paragraph 92  
25 of the evidence -- I am sorry, page 74, which is

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1 volume C, tab 3, if it helps you.  
 2 A. 94?  
 3 Q. 74.  
 4 A. Mr McAlindon again.  
 5 Q. Yes.  
 6 A. Yes.  
 7 Q. At 92.1 is a summary of the evidence of the staff in  
 8 relation to ... sorry, I am afraid the pagination --  
 9 paragraph 92.1. It may be that ... do you have that?  
 10 A. Yes.  
 11 Q. Sarah Scott?  
 12 A. Yes.  
 13 Q. So the evidence of the staff in relation to Mr Ferguson,  
 14 she said that she wouldn't see him more than a couple of  
 15 times a month, no more than two hours, and when told  
 16 that he was paid over £5,000 through SEP she laughed and  
 17 explained that it was impossible to have done this work  
 18 without her having seen him or seen signs of the work  
 19 having been completed, and she said that her view was  
 20 that these were fraudulent payments. Do you see that?  
 21 She is wrong about all that?  
 22 A. Yes, I am quite surprised Ms Scott, the number of times  
 23 she kept calling Mr Ferguson in, and wanting Mr Ferguson  
 24 into the store, would even make a response like that.  
 25 She would phone me and say "Our door has fallen off the

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1 frame, this has broken, there is water leaking through  
 2 the ladies' toilet, the ladies' toilet is blocked",  
 3 Ms Scott was the one who most frequently called for the  
 4 help of Mr Ferguson. So this is another witness  
 5 statement by Mr McAlindon, who didn't actually interview  
 6 any of the staff, by the way, someone else did.  
 7 Q. Gemma Davies, since January 2011, she said she had only  
 8 seen him once since joining the store and that was five  
 9 minutes to fix a heater; is that wrong?  
 10 A. Yes, it is.  
 11 Q. Romie Rhoder said: did odd jobs no more than four time  
 12 in 2011.  
 13 A. I don't understand how these staff could make these  
 14 statements. It's a little bit strange that Romie Rhoder  
 15 would have said he did odd jobs and that had only seen  
 16 him in the store four times in 2011. So what if she had  
 17 only seen him four times? It doesn't mean he wasn't  
 18 there.  
 19 Q. Then Mr Verrell who said he described him as a handyman.  
 20 In 2008 and 2009 had repaired the roof, fitted out a lab  
 21 and put up a partition, but since then had only seen him  
 22 two to three times a month and since January 2011, only  
 23 one to two occasions. Is that all wrong?  
 24 A. Yes. During that period, I think we had had a break-in,  
 25 so Mr Ferguson had been up on the roof before 16 April

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1 because he was on holiday after that, but I think we had  
 2 actually had a break-in, a number of times, up on the  
 3 roof into the ladies toilet which caused leakage, and he  
 4 had to secure it a number of times. So I don't accept  
 5 that.  
 6 Q. Mr Ferguson wasn't on the CCTV for the period 1 to  
 7 14 June, was he?  
 8 A. From which period?  
 9 Q. 1 to 14 June 2011.  
 10 A. 1 to 14 June 2011?  
 11 Q. No.  
 12 A. He wasn't on the CCTV?  
 13 Q. No, he didn't come in during that period?  
 14 A. I don't know.  
 15 Q. Well, the CCTV doesn't show him as coming in, does it?  
 16 A. I don't know.  
 17 Q. Okay. I put it to you that the CCTV doesn't show that.  
 18 A. If you say so.  
 19 Q. Now, you did say in interview that he had been away in  
 20 Australia for about three weeks from April or May;  
 21 correct?  
 22 A. In June, no, Mr Ferguson hadn't been in because he had  
 23 been on holiday since April, yes.  
 24 Q. There we go. What happened on either side? He had only  
 25 been away for three weeks?

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1 A. What do you mean on either side?  
 2 Q. Who was doing the essential maintenance when he was not  
 3 there?  
 4 A. Well, any minor things that needed fixing I would fix  
 5 them myself.  
 6 Q. Now, the alarm panel, Mr McAlindon deals with, in terms  
 7 of 31 March to July. Mr Ferguson submitted invoices  
 8 dated 2 April and 6 April for work done on 28, 29, 31,  
 9 1, 2, 4 and 6 April, but the alarm was not switched off  
 10 for any significant time outside hours during that  
 11 period. So those records didn't support the possibility  
 12 of him doing the work outside trading --  
 13 A. April which year are we talking about?  
 14 Q. 2011.  
 15 A. As Mr Ferguson was on holiday from 16 April, show me the  
 16 invoices that he submitted after that.  
 17 Q. The invoices from the 28, 29, 31, 1, 2, 4 and 6, that's  
 18 the dates on his invoices that he said that work was  
 19 done?  
 20 A. In April?  
 21 Q. Yes.  
 22 A. 6 April?  
 23 Q. Yes.  
 24 A. Fine.  
 25 Q. But the alarm wasn't switched off during those periods.

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1 A. Well, the alarm must have been switched off during those  
2 periods, because first of all the cleaners would have  
3 been in, so they would have been switched off while they  
4 were there.  
5 Q. Not for any significant time.  
6 A. Well, what's "significant" mean?  
7 Q. That's a reference to the report at E5/12/77. So you  
8 don't accept the conclusion of your report on that  
9 regard; is that right?  
10 A. I haven't seen the report.  
11 Q. E5/1277.  
12 A. Who is this report by?  
13 Q. This is the investigation report.  
14 A. Can I see the log, Mr Potts?  
15 Q. Can I deal with 1277, please, the top of the page?  
16 A. Yes.  
17 Q. Last two invoices, charging daily rates for work  
18 allegedly done on 28, 29,31, 1, 2, 4, 5 and 6th?  
19 A. Right.  
20 Q. And the point is that it says below that when the store  
21 was not open, the alarm was unset for a period of  
22 between -- on Sunday, just on those two days, the alarm  
23 was unset. Below that, it was not switched off for any  
24 significant period of time on any of these days outside  
25 trading hours, so the alarm records do not support the

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1 possibility of having worked outside of trading hours.  
2 Is that made up?  
3 A. I haven't seen the alarm log, Mr Potts, that's why  
4 I have asked you to be shown the alarm log, please.  
5 Q. That's the report. I am asking you, you are saying you  
6 don't accept that?  
7 A. No, I don't accept it, because I don't know, I haven't  
8 seen the alarm log, so you know, you are just telling me  
9 that the alarm log was unset. I see it says here that  
10 it was -- when the store was not open the alarm was  
11 unset for a period of between 5 and 11 hours. I don't  
12 understand how there could be a six hour discrepancy.  
13 Surely it was unset either for 5 hours or 11 hours, it  
14 wasn't for a period of between 5 and 11 hours. Unless  
15 5 hours, 11 hours are actual times.  
16 Q. Those aren't the days which we are dealing with in terms  
17 of these invoices.  
18 A. Yes, but what I am saying to you is that obviously there  
19 is a problem with the alarm or the recording of this  
20 alarm information. In that particular paragraph it's  
21 saying it is between 5 and 11 hours, so can we have  
22 a look at the alarm log?  
23 Q. No. Do you accept it or not?  
24 A. No.  
25 Q. Can we move briefly to the invoices? Because he moved

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1 on to a retainer of £240 a week and a daily rate of  
2 £120, occasionally raising to £175. The invoices were  
3 put through, through the SEP system. Can you pick up  
4 E7, please? Page 1738 is a schedule of the SEP payments  
5 which run from 3 October 2009 up to 19 April 2011?  
6 A. Yes.  
7 Q. £35,345?  
8 A. Okay.  
9 Q. Then you have an example of the SEP invoice over the  
10 page, 1739.  
11 A. Yeah.  
12 Q. You see, the problem with these invoices is because they  
13 are generated on the system designed for locums and  
14 self-employed optometrists and suchlike, they don't show  
15 any detail about what work is being done, do they?  
16 A. No, they don't, do they?  
17 Q. No. In fact, they also hide the fact as to who he is  
18 and what he is doing, because he is described as  
19 a technician; correct?  
20 A. The dictionary definition of a technician is somebody  
21 who does work in terms of his art.  
22 Q. The dropdown menu relates to a lab technician, doesn't  
23 it, as you well know, Mr Vos?  
24 A. I don't know what the dropdown menu says, because I used  
25 to produce these invoices from my home office, not from

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1 the dropdown menu.  
2 Q. In interview you tried to share your involvement in this  
3 by saying they were processed by Sarah or even Mr Weller  
4 or you?  
5 A. Yes, they were.  
6 Q. In fact, if you look through these, every single one of  
7 these was signed off by you, wasn't it?  
8 A. They certainly were, Mr Potts, but you would have to  
9 look at the authorisation codes and who accessed the  
10 authorisation codes to find out who processed them.  
11 Q. You can see approved by, every single one is approved by  
12 you?  
13 A. That's because they were being sent from my home office.  
14 The actual authorisations, Mr Potts, is a two part to  
15 this. You see the top part that says "Authorisation  
16 Code", somebody has to actually go into the system and  
17 put in what we are going to be charging for, and that  
18 authorisation code could have been generated by -- would  
19 have been generated by Mr Weller, Ms Scott, myself, and  
20 I may have signed the form, but there would have been  
21 quite a number of forms which you are omitting here that  
22 were actually signed by -- on these SEPs -- Ms Scott or  
23 Mr Weller.  
24 Q. I put it to you the position is that every one of these  
25 forms is signed by Mr Ferguson, because he has to submit

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1 it as the employed professional?  
 2 A. Yeah.  
 3 Q. And they are approved by and signed by you with your  
 4 employee number?  
 5 A. Yes, and that's not hidden anywhere, is it? It's even  
 6 got my name on it, W Godfrey Vos, business practice  
 7 manager.  
 8 Q. When you said in interview that Mr Weller or Sarah were  
 9 doing them, that's not true, is it, unless they were at  
 10 home with you --  
 11 A. Mr Potts, I just explained something to you and once  
 12 again you just go round in a circle and you come back to  
 13 it again. These forms have to be approved on the  
 14 computer, on the system, the SEP system on the computer.  
 15 The only way you can have them accepted is if you put  
 16 this authorisation code in the top of them which is  
 17 800293021220 on document 1739 and 800363021040 on  
 18 document 1740. So although I may have signed the forms  
 19 and sent them off, they could have been approved by  
 20 somebody else and what you would need to do is get the  
 21 logs of whoever the authorisation code, whoever  
 22 generated the authorisation code, because they are the  
 23 people who would have possibly authorised the document.  
 24 And I know that Ms Scott authorised some of them, and  
 25 I know that Mr Weller did. So I agree I signed the

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1 forms, but they were signed under an authorisation.  
 2 Q. They are signed by you and the authorisation codes are  
 3 also all in the same handwriting, aren't they?  
 4 A. Yes, because the authorisation codes would have been  
 5 given to me by Mr Weller.  
 6 Q. So did you fill in your codes?  
 7 A. I did, yes.  
 8 Q. I see, so firstly you signed it and the authorisation  
 9 codes were filled in by you; correct?  
 10 A. That's right.  
 11 Q. And it says at the bottom approved by you?  
 12 A. Yes.  
 13 Q. So not by Mr Weller and not by Sarah, as you said in  
 14 interview?  
 15 A. Yes, they were approved by them, Mr Potts. Once again  
 16 we are going around in another circle again.  
 17 Authorisation code means that somebody has gone and got  
 18 an authorisation code for them, and once they have got  
 19 the authorisation code, they would have relayed it to  
 20 me, I would have filled it in and we would have  
 21 discussed what it was about, I would have filled it in.  
 22 So if you go to the logs, if you go all these logs and  
 23 8002 and whatever it is, you will find that there will  
 24 be different people involved. So yes, I signed it and  
 25 I filled in the authorisation code.

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1 Q. They relate to payment on three to four days a week and  
 2 sometimes five days a week?  
 3 A. Could be, yes.  
 4 Q. He wasn't doing anything like three to four days a week,  
 5 was he?  
 6 A. He was.  
 7 Q. These are all the documents that you signed?  
 8 A. He was doing that.  
 9 MR POTTS: My Lord, that may be a convenient moment.  
 10 MR JUSTICE HILDYARD: Yes.  
 11 Housekeeping  
 12 MR STUART: My Lord, that's fine, I understand that's  
 13 a convenient moment. I just had a query, and whilst the  
 14 documents are literally open in front of us, if I could  
 15 raise that query and then it could be addressed.  
 16 MR POTTS: No.  
 17 MR STUART: I want to see a document.  
 18 MR JUSTICE HILDYARD: Are you making an application?  
 19 MR STUART: Not an application, I am going to make  
 20 a request, but I want to make it openly so one can see  
 21 what I am requesting.  
 22 MR JUSTICE HILDYARD: All right.  
 23 MR STUART: My learned friend took the witness to page 1277  
 24 and the -- at the top.  
 25 MR JUSTICE HILDYARD: File?

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1 MR STUART: E5/1277. Does your Lordship have that?  
 2 MR JUSTICE HILDYARD: Yes.  
 3 MR STUART: He was just taken to it, and he was asked about:  
 4 JF's last two invoices were charging day rates of, done  
 5 on, and then dates, 28, 29, 31 March, 1, 2, 4, 5 and  
 6 6 April 2011.  
 7 Mr Potts then took the witness to E7/17 and I have  
 8 at 1759 these are documents added late on, as  
 9 I understand it, following disclosure by the defendants.  
 10 These are the invoices that they have disclosed, but  
 11 they seem to end at page 1759.  
 12 MR POTTS: These are not late disclosed documents.  
 13 MR STUART: They are not? Okay. I don't know why they are  
 14 put into the back of the last bundle. Anyway, page 1759  
 15 seems to be the last of them, and it ends on 24 March.  
 16 So the crucial one that we are being asked to consider,  
 17 or the two, would be the next two invoices. I would  
 18 like to see them, my Lord, not only because I would like  
 19 to see them, but also because I note that the dates  
 20 don't seem to tie in with the dates at 1277 either,  
 21 because in 1277 it says --  
 22 MR JUSTICE HILDYARD: Is this a matter you need to  
 23 elaborate?  
 24 MR STUART: Yes. No, I don't need to elaborate.  
 25 MR JUSTICE HILDYARD: I understand the request for two

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1 invoices which may or may not be missing, and you are  
2 asking for those to be provided, so that you can look at  
3 them and possibly ask questions about them?  
4 MR STUART: Yes.  
5 MR POTTS: No problem. Just to make clear, the SEP invoices  
6 in this bundle are not late disclosed documents, these  
7 are documents which have been in disclosure from the  
8 start.  
9 MR JUSTICE HILDYARD: That would go to the question of  
10 whether they should have been asked for earlier, but  
11 they are being asked for now.  
12 MR POTTS: I just wanted to make it clear that these are not  
13 new documents. My Lord, we can deal with that, I am  
14 sure, over the weekend.  
15 MR JUSTICE HILDYARD: Thank you very much. It is the fact,  
16 is it, that none of the people, none of the staff is  
17 being called; is that right?  
18 MR POTTS: My Lord, we dealt with that on the first day.  
19 MR JUSTICE HILDYARD: Yes, but that is the position?  
20 MR POTTS: We put in hearsay notices, my Lord.  
21 MR JUSTICE HILDYARD: Yes. Very well. Monday, I haven't  
22 got anything else on Monday, do you wish for an early  
23 start or do you feel that we are motoring along  
24 satisfactorily? I really don't think we are going to  
25 finish this term, and we are already a little bit

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1 behind, I don't know much further you have.  
2 MR POTTS: Not very much, my Lord. If we could start early  
3 on Monday, my Lord, I am an eternal optimist.  
4 MR JUSTICE HILDYARD: What do you say?  
5 MR STUART: I am not going to -- my Lord, if you and  
6 Mr Potts wish to start early on Monday, I am very happy  
7 to start early on Monday.  
8 MR JUSTICE HILDYARD: I never wish to start before 10.30,  
9 but I quite understand if people feel that they will  
10 make genuine progress on that, we will start at  
11 10 o'clock.  
12 Mr Vos, I am sorry, you have a weekend where you are  
13 in purdah, and I know that this will be swilling around  
14 in your mind, but you must avoid the temptation to speak  
15 about it to anybody, and we will meet again on Monday at  
16 10 o'clock.  
17 THE WITNESS: I understand, my Lord.  
18 MR JUSTICE HILDYARD: Have a good weekend.  
19 (4.40 pm)  
20 (The court adjourned until 10.00 am  
21 on Monday, 9 December 2013)  
22  
23  
24  
25

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