

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 6

December 9, 2013

Opus 2 International - Official Court Reporters

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1 Monday, 9 December 2013
2 (10.00 am)
3 MR WILLIAM GODFREY VOS (continued)
4 Cross-examination by MR POTTS (continued)
5 MR JUSTICE HILDYARD: Good morning.
6 MR POTTS: Good morning. Good morning Mr Vos. Mr Vos
7 I would like to pick up on a couple of points that we
8 dealt with on Friday if I may. Could you have
9 the transcript bundle provided to you please.
10 Does your Lordship have the transcript?
11 MR JUSTICE HILDYARD: Hold on one second. Yes.
12 MR POTTS: My Lord, could I just have a moment. (Pause).
13 Right. I'm sorry about the delay. Could you please
14 turn up page 19 on day 5. If you look in the white
15 file, sorry.
16 A. Page?
17 Q. It is 19. They are four to a page and it is the -- it
18 is in the middle of the page.
19 A. Okay.
20 Q. Do you have that?
21 A. Mmm hmm.
22 Q. Around 12-21 I was asking you about the request by
23 Mr Rowe on 29th February 2008 for details of invoicing
24 by Optimisation Healthcare. Do you remember that on
25 Friday?

1

1 A. I do, yes. Whereabouts is that on this?
2 Q. Let me give you -- your explanation was that -- you said
3 in relation to the e-mails which had been provided in
4 response, you assert that had Mr Rowe was only
5 requesting information about invoices with
6 the letterhead Optimisation Healthcare Group but not
7 those by Optimisation using the trading name W Godfrey
8 Vos, do you remember that?
9 A. Yes.
10 Q. In fact you made that point four times on pages 19, 20
11 and 21.
12 A. Yes.
13 Q. Now, can I take you back to E2, please, at page 366.
14 A. Yes.
15 Q. Those are the minutes of the BRM. You see there is
16 a heading, "Optimisation". Mr Rowe explains his
17 thoughts on Optimisation, and runs through the list of
18 all the items that have been charged, yes? HO, that's
19 your wife explains who you are:
20 "An accountant who works for Fiscal Resources and
21 her husband ... started working with BW to help him out
22 with his development."
23 Then she recited a pre-written letter as regards
24 your role, yes?
25 A. Whereabouts is that?

2

1 Q. Just by -- just above the first hole punch. HO -- it is
2 a little confusing, but HO is your wife -- recites
3 a pre-written letter. Do you see that?
4 A. Yes.
5 Q. So, the explanation as to who you are and
6 the reference -- the reason the reference is there to
7 you is because that's a reference to the trading name
8 invoices, isn't it?
9 A. I'm sorry I don't -- I'm not quite with what you are
10 trying to say. It says:
11 "MI explains its role in this company and runs
12 through a list of all items that have been charged by
13 this company."
14 Q. Your case on Friday, repeatedly was that Mr Rowe was
15 only interested in the, if you like, the concierge or
16 facilitation service invoices, but not the ones in
17 relation to your services; that was your position,
18 correct?
19 A. That is correct.
20 Q. I put to you that your wife recited a pre-written letter
21 with regards to your role. Now that's in relation to
22 your services which were being invoiced, wasn't it?
23 A. Can I have a look at the pre-written letter please?
24 Q. Well, obviously it is not here. In fact she refused to
25 hand over a copy. Did you prepare that letter?

3

1 A. To be honest with you, I can't remember anything about
2 a pre-written letter. So I wouldn't know why she would
3 refuse to hand over a copy. But she may well have
4 recited what my role was, but that doesn't mean it has
5 got anything to do with Optimisation Healthcare Group.
6 At that time she would have made it clear I was involved
7 in Optimisation Healthcare Group and she would have
8 explained my role.
9 Q. In terms of that, if you see there is an invoice for
10 £1,900?
11 A. Yes.
12 Q. If you pick up E7 please, which is the schedule we
13 looked at before, of the invoices. Page 1761.
14 A. Yes.
15 Q. Now, that's the list of the invoices and the only
16 invoice for £1,900 is item 39. Do you see that? 1761?
17 A. Yes.
18 Q. Okay. Now if you go back to E1 -- you can put E7 away
19 I think. 154-23, yes?
20 A. Yes.
21 Q. That's the invoice. You see the fees are £1,900.
22 A. Mmm hmm.
23 Q. Now that's an invoice from Godfrey Vos, Fasa Accountancy
24 Services. In fact it is Optimisation but trading as
25 Godfrey Vos Fasa, isn't it?

4

1 A. Mmm hmm.
 2 Q. So, in fact, it is clear that Mr Rowe was plainly aware
 3 of the invoices from Optimisation trading as Godfrey Vos
 4 Fasa, first point; correct?
 5 A. Mr Rowe, that was not the question that he was asking to
 6 start with, he may have become aware afterwards but
 7 when he made the enquiry of Dr Poulson and Mr Weller he
 8 was not aware of the Godfrey Vos Fasa involvement in
 9 Optimisation Healthcare Group.
 10 Q. Sorry, let's break it down. The question he was asking
 11 at the meeting was in relation to an invoice by Godfrey
 12 Vos Fasa, correct?
 13 A. Yes.
 14 Q. So he was aware of the invoices using the trading name,
 15 correct?
 16 A. He would have been made aware at the time when
 17 Dr Poulson pointed it out to him.
 18 Q. At the meeting?
 19 A. I would assume so, yes, or before the meeting.
 20 Q. Well, it wouldn't have been at the meeting, would it,
 21 because he has obviously come pre-armed with a specific
 22 reference to this invoice, hasn't he?
 23 A. What I'm saying to you is that if he came armed with
 24 that particular invoice, it wasn't to do with
 25 Optimisation Healthcare Group, it was to do with me --

5

1 Q. Your position on Friday --
 2 A. -- because he also went through invoices to do with me,
 3 that was nothing to do with Optimisation Healthcare
 4 Group, the invoices, he was querying with Dr Poulson,
 5 what my role was. But his original request was to do
 6 with invoices for Optimisation Healthcare Group Limited
 7 and if they were to do with me, he would have said, "And
 8 also W Godfrey Vos at Optimisation Healthcare Group
 9 trading as W Godfrey Vos." But he didn't say that in
 10 any of his communications, did he Mr Potts?
 11 Q. You know Mr Vos that all these invoices were rendered by
 12 that company, correct? By Optimisation?
 13 A. Yes Mr Potts.
 14 Q. And we looked at the February email, which was a general
 15 request in relation to the services rendered by that
 16 company, correct?
 17 A. Correct.
 18 Q. And that included, and indeed the very large --
 19 significant part of those sums invoiced were in relation
 20 to your services by that company, correct?
 21 A. That wasn't what Mr Rowe had asked questions about,
 22 my Lord. He was only interested in Optimisation
 23 Healthcare Group. He never mentioned W Godfrey Vos in
 24 any of his communications.
 25 Q. He mentioned the company in the e-mails. The response

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1 that was given was misleading and the discussion at the
 2 meeting was in relation -- largely in relation to your
 3 services provided by that company, wasn't it?
 4 A. No. Largely he asked the question -- the reason that he
 5 contacted Dr Poulson and Mr Weller was in connection
 6 with the company Optimisation Healthcare Group. He
 7 didn't mention Optimisation Healthcare Group trading as
 8 W Godfrey Vos, which he would have done if he was
 9 interested in doing an investigation on that as well.
 10 Q. If the only interest was in relation to the facilitation
 11 services rather than yours, why was it necessary for
 12 your wife to read out a pre-written letter dealing your
 13 services?
 14 A. I think she was making him aware of my involvement in
 15 more detail. Although they were aware of it, she was
 16 making him more aware of my involvement. And where is
 17 this pre-written letter that she wrote?
 18 Q. As I said, the point is that the pre-written letter, she
 19 refused to hand it over?
 20 A. Well I can't believe that she would refuse to hand it
 21 over, does it say that in the minutes? That would be
 22 very unlike her to refuse to hand it over. Or is that
 23 an interpretation you are putting on it?
 24 Q. Mr Rowe's evidence is that she refused to hand over
 25 the letter, it is in that evidence there.

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1 A. Does it say that on his minutes?
 2 Q. Well, that's his evidence Mr Vos. The point I'm putting
 3 to you is that the major part of the discussion at the
 4 meeting was in relation to the provision of your
 5 services and the concern was that if you were going to
 6 be providing services to the company, you should be
 7 employed; correct?
 8 A. The original enquiry was to do with Optimisation
 9 Healthcare Group Limited and its invoices.
 10 Q. Those invoices included significant sums for your
 11 services.
 12 A. No, those were not what the inquiry was about originally
 13 Mr Potts. You can twist that as much as you like but
 14 that was not what it was about originally, and I know
 15 that because I was there and involved. And Dr Poulson
 16 would have pointed out, or would have told Mr Rowe about
 17 my involvement and that would have been the situation.
 18 Q. I put it to you that that is incorrect. The minutes of
 19 the meeting made clear that the significant part of the
 20 discussions were all about your services, the Fasa
 21 invoices, correct?
 22 A. Show me where it says that.
 23 Q. I have just shown you.
 24 A. You have shown me an invoice for £1,900. Show me where
 25 it mentions W Godfrey Vos Fasa invoices all the time.

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1 Let me see that.
 2 Q. We have just looked at the invoice, which was
 3 a Fasa invoice, and that was the invoice that was
 4 discussed at the meeting.
 5 A. One invoice of £1,900 was discussed. You are saying
 6 that the whole meeting was all to do with -- can you
 7 point me back to that particular document please?
 8 Q. The invoice?
 9 A. No, the minutes.
 10 Q. 366.
 11 A. Sorry, may I just quickly read through --
 12 Q. Yes of course.
 13 A. -- then I will answer your questions. (Pause).
 14 I cannot see the reference to W Godfrey Vos Fasa
 15 anywhere in those minutes.
 16 Q. That is exactly the point.
 17 A. If you can point them out to me where they are.
 18 Q. That is exactly the point Mr Vos, because there was no
 19 distinction drawn. These were all invoices rendered by
 20 Optimisation. The vast bulk of the fees rendered by
 21 Optimisation were referenced to your services. That was
 22 what he was concerned about largely.
 23 A. I find it very strange that he would not have mentioned
 24 W Godfrey Vos Fasa, Optimisation trading as W Godfrey
 25 Vos Fasa, if that was the case. There is not one

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1 mention of that in that whole document, not one mention.
 2 I then go back to what he said, that his original
 3 inquiry was about Optimisation Healthcare Group
 4 invoices. At the top of the invoice is Optimisation
 5 Healthcare Group. W Godfrey Vos, as you can see, had
 6 very small writing at the bottom, "Optimisation
 7 Healthcare Group". If he was that concerned about
 8 W Godfrey Vos Fasa, he would have said: I would like
 9 a meeting about Optimisation Healthcare Group and
 10 W Godfrey Vos Fasa. Optimisation trading as that. He
 11 doesn't mention it one time in this entire set of
 12 minutes, does he?
 13 Q. Mr Vos, you are a sophisticated businessman. You know
 14 that the trading name -- this idea to try to separate
 15 them out is artificial. They are the same company, it
 16 is the same entity.
 17 A. I'm a businessman, yes and I know full well that
 18 somebody like Mr Rowe, who you have already described as
 19 a low-level employee, would have mentioned W Godfrey Vos
 20 Fasa if he had a concern about it.
 21 Q. He specifically is discussing one of its invoices,
 22 the trading invoices.
 23 A. He hasn't mentioned the name once in this whole set of
 24 minutes.
 25 Q. He doesn't need to mention the name.

10

1 A. Of course he does.
 2 Q. He is discussing the particular invoice, isn't he?
 3 A. Of course he would have Mr Potts. Of course he would
 4 have.
 5 Q. The significant concern discussed during the course of
 6 this discussion is in relation to your services. Those
 7 services were rendered by Optimisation using the trading
 8 name; that's what they are discussing?
 9 A. They discussed two distinct things. They discussed my
 10 involvement and they discussed Optimisation's
 11 involvement and I can assure you Mr Rowe wouldn't have
 12 known the difference between a trading as or whatever.
 13 Q. Your involvement is discussed under the same heading of
 14 "Optimisation" because it was that company which was
 15 providing your services.
 16 A. I have given you my answer Mr Potts. You can keep on
 17 churning away at the same thing all the time. That is
 18 the answer.
 19 Q. The reason why you won't accept this is because you have
 20 to explain firstly the misleading e-mails which you
 21 prepared at the time in advance of this meeting and your
 22 explanation to his Lordship on Friday. Both of which
 23 were misleading.
 24 A. No. My explanation was correct, my Lord, and they were
 25 not misleading and I will stick to my story. I'm sorry,

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1 that's the truth. You can try and obfuscate the truth
 2 as much as you want Mr Potts.
 3 Q. Let's move on. If you have the transcript on page 83.
 4 This is in relation to your suspension letter. Do
 5 you have that? Tell me when you have got there.
 6 A. 83.
 7 Q. Yes, 83 at line 6, I put to you that it was hand
 8 delivered and you said it arrived ten days later.
 9 A. It certainly wasn't hand delivered Mr Potts. Who hand
 10 delivered it?
 11 Q. Let's just deal with both points. Firstly, was it
 12 delivered by post ten days later?
 13 A. Well, it was certainly delivered well after Dr Poulson
 14 and Mr Weller had received theirs in the post.
 15 Q. Firstly let's have a look at E4 at 971, which I didn't
 16 point out to you. Perhaps to assist your
 17 recollection~...
 18 A. Yes.
 19 Q. The first point, just at the top, it says it is
 20 delivered by hand, do you see that?
 21 A. I understand that they took these letters into the store
 22 with them and that is why they would have said it was
 23 delivered by hand. But we were not in the store, were
 24 we, Mr Potts.
 25 Q. I think that's for yours. I'm not sure the other ones

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1 say the same thing. No they don't. In fact they were
 2 dealt with in delivery in a different way.
 3 If you turn on to 959.
 4 A. Yes.
 5 Q. That deals with the position as regards your wife. She
 6 was sent, on 15/04 at 13.00 by email. Firstly you see
 7 from the attachments, "Minutes of the board meeting",
 8 which had taken place that day dealing with suspension.
 9 And those minutes refer to your suspension, correct?
 10 A. Whereabouts?
 11 Q. 964. Middle of the page. Then in fact at the top of
 12 the page as well. That's the resolution.
 13 A. Yes.
 14 Q. Okay. Also attached to that email was a copy of her
 15 suspension letter in, in fact, identical terms to yours.
 16 A. Yes.
 17 Q. The letter for her was posted both by normal and
 18 recorded post.
 19 A. Yes.
 20 Q. So it would have come to her attention extremely
 21 quickly, correct?
 22 A. Yes.
 23 Q. So in the first place I put it to you that the letter
 24 was in fact hand delivered to you.
 25 A. By who Mr Potts? Who would have hand delivered a letter

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1 to me at home? Who was given -- who has given evidence
 2 that they hand delivered a letter to me at home?
 3 Q. Could you just answer --
 4 A. No, it wasn't.
 5 Q. In any event I put it to you that you would have been
 6 aware of communications that day. Firstly that you had
 7 been suspended and secondly, that the terms of
 8 the suspensions were involving noncommunication with
 9 other employees, correct? Because your wife's letter
 10 said that as well, and indeed Mr Weller's.
 11 A. Well, I didn't receive the letter.
 12 Q. Can we move on please. You can put E4 away. Turn up in
 13 the transcript 97, page 97. Do you have that?
 14 A. Yes.
 15 Q. At the bottom of the page, lines 19 and then going down
 16 to the next page on 98, line 3.
 17 A. Is the number above the page or below?
 18 Q. 97 --
 19 A. Above the page?
 20 Q. Yes, that is the page. If you start at line 19 --
 21 A. Yes.
 22 Q. -- and then just read down to the next page down at
 23 line 3. (Pause).
 24 A. 97, line 3?
 25 Q. No, 97, line 19 at the first hole punch:

14

1 "She wouldn't know ... it is very interesting you
 2 haven't brought these people ..."
 3 Do you see that?
 4 A. Yes.
 5 Q. So you launched a complaint about my client's failure to
 6 bring the employees to court to be cross-examined
 7 because you wanted to get to the bottom of how they were
 8 pressurised on their statements, correct?
 9 A. Yes.
 10 Q. Let's run through that. The first point is that
 11 the employees' statements were disclosed to you on
 12 standard disclosure in this action ...
 13 In fact you had had them for a very long time
 14 because they were disclosed in the ET proceedings which
 15 you brought and discontinued, correct?
 16 A. I'm not sure that they were, but if you say so. I am
 17 sure my -- counsel acting for Mr Poulson will confirm --
 18 Q. Fine. Then heresay notices were served in relation to
 19 them. Can you take up volume C please. That will be
 20 provided to you. If you turn to the back of that.
 21 A. What page?
 22 Q. Right to the back, page 160.
 23 A. Yes.
 24 Q. That's the hearsay notice. Do you see paragraph 2 deals
 25 with the investigatory interviews of all those people.

15

1 Then paragraph 5, some of them are not called because
 2 they are you. Then paragraph 5:
 3 "... not proposed to call the makers of the oral
 4 statements in 3 to 10 because of the availability of
 5 transcripts of the interviews, that are signed and dated
 6 by members of staff confirming they are accurate
 7 reflections of the interviews. Furthermore, transcripts
 8 are only relevant to the extent that if a witness in
 9 these proceedings relied upon them in the preparation of
 10 a report referred to in the witness statement."
 11 And that's the point which I raised with his
 12 Lordship on the first day. Do you see that?
 13 A. Yes.
 14 Q. But you had the hearsay notice on 26th June. In fact
 15 the first challenge to that evidence came not -- there
 16 wasn't some immediate riposte. In fact it was only
 17 three months later that that came. If you have F1
 18 please.
 19 Again, right towards the back of the bundle,
 20 page 251, there is a letter from your solicitors.
 21 I'm sorry, I need to correct a point, it wasn't in
 22 the ET, it was in standard disclosure that they were
 23 provided, although they were referred to in
 24 the pleadings.
 25 A. I have a 250.

16

1 Q. Then if you keep going through the dashes you will get
2 to a letter from your solicitors on 24th September at
3 251.
4 A. Well, I'm starting at 252. So I have got 250/5 and then
5 252.
6 Q. We will pass that up to you. Does your Lordship have
7 it? (Pause).
8 And you will see at the bottom it says:
9 "We refer to the hearsay notice."
10 This is dated 24th September, so three months later.
11 Then it says:
12 "We give notice that we don't accept the truth of
13 the contents, if you want to rely on this they will need
14 to be called to give oral evidence."
15 A. Yes.
16 Q. There was a response on 3rd October, if you turn through
17 to 256. Particularly at 257 is on the hearsay notices.
18 The point was made firstly that there's no obligation to
19 call the individuals whose hearsay evidence was sought
20 to be relied on:
21 "If your clients do not accept the veracity of the
22 statement it is open to them to apply to the court under
23 Rule 33.4 to call those witnesses for
24 cross-examination."
25 So the point was made, in fact volunteered, as to

1 the mechanism -- firstly, in fact, you could have just
2 called those witnesses yourself. You could have gone to
3 speak to them. Secondly, you could have made
4 an application to court to have those witnesses called
5 for cross-examination. Do you see that? In fact my
6 solicitors pointed it out to you.
7 A. Yes.
8 Q. Now, there was a response on 9th October from your
9 solicitors which doesn't mention -- it deals with
10 the specific disclosure aspects but it didn't -- but it
11 doesn't mention this:
12 "We had a full PTR listed for a day before the judge
13 on 22nd October of this year."
14 Your solicitors made extensive applications at that
15 hearing that there was no application made in relation
16 to the attendance of these witnesses, was there?
17 A. Well, I think that you basically need to discuss it with
18 our solicitors. I mean, I'm not a solicitor.
19 Q. I think you were in court, weren't you, that day Mr Vos?
20 A. I was.
21 Q. Well there wasn't an application made in relation to
22 attendance of witnesses, was there?
23 A. I wouldn't know why there wasn't an application. That's
24 why I say you probably need to speak to our solicitors
25 as to what the answer to that is. I don't understand

1 the ins and outs of the CPRs and 3.4.2 et cetera
2 my Lord. I know that we wanted the hearsay witnesses to
3 appear in court. It was something we discussed with
4 counsel, I think, just prior to these letters being sent
5 out, and one of the concerns we had was that the --
6 MR JUSTICE HILDYARD: You better not get into privileged
7 material.
8 Mr Potts I mean is this something -- presumably,
9 this was a matter which was reviewed or possibly
10 overlooked, I don't know what the reason was, but how
11 can this witness help us with legal processes?
12 MR POTTS: The point I'm trying to make my Lord, and
13 the point I would like to put to Mr Vos, if I may just
14 put the point, which is that you alleged some great
15 unfairness. The point I put to you is that you had
16 a full opportunity either to call those witnesses
17 yourself or to seek an order from the court for their
18 attendance.
19 MR JUSTICE HILDYARD: How can he know that sort of thing?
20 This is a matter for the CPR, legal eagles and that sort
21 of thing. He has given evidence that he challenged you
22 as to why they weren't being called. You have shown him
23 that no steps were taken in the correspondence. He
24 notes that and said why. Where can we take it from
25 that?

1 MR POTTS: Maybe that's -- maybe I will leave the point.
2 Now the final point. At T5, day 5, 213 you asked for
3 the alarm log.
4 A. Yes.
5 Q. That was provided, I think, on Friday evening. In fact
6 it was a disclosed document. It is not -- it wasn't
7 provided for the first time, it was a disclosed
8 document. It was provided not for the first time but
9 again on Friday evening; yes?
10 Now there's a covering email. These are all
11 disclosed documents. Can I just take you to the first
12 page. There are some details about the alarm, there had
13 been some inquiries about that by Mr McGowan.
14 Just below the first hole punch, it said:
15 "Both Trish and Jason Brown confirmed that should it
16 activate no staff members would be called out as details
17 were not on record."
18 Do you see that?
19 A. Sorry, where is that?
20 Q. You are obviously looking ahead. I would prefer it if
21 you looked at the first page, which is the covering
22 email.
23 MR STUART: My Lord, I'm sorry to interrupt, could I have
24 a copy of whatever it is my learned friend is reading?
25 MR POTTS: It is documents sent to your solicitors on Friday

1 evening.
 2 MR STUART: Thank you.
 3 MR POTTS: Do you have the email?
 4 A. From Mr Barnes to Mr McGowan?
 5 Q. I think it is the other way round, Mr Barnes from
 6 Mr McGowan?
 7 A. Sorry to Mr Barnes from Mr McGowan.
 8 Q. Fifth paragraph down below the hole punch, I read to you
 9 that:
 10 "Both Trish and Jason Brown confirmed that should
 11 [the alarm] activate no staff members would be called to
 12 attend as the details are not on record."
 13 Do you see that?
 14 A. Yes.
 15 Q. Then a couple of paragraphs down:
 16 "I attach a file shown by month, day and date
 17 the times the alarm has been unset and set. It runs
 18 from March 2011 to July 12th, 2011."
 19 A. Okay.
 20 Q. It doesn't trade on Sundays. There is a reference to it
 21 opening on a couple of days, although those are not
 22 dates in respect of which Mr Ferguson rendered invoices
 23 for his services. Okay?
 24 A. Right.
 25 Q. And over the page is the file showing the logs.

21

1 A. I assume that this opened at 7.24 in the morning.
 2 Q. It says the alarm clock is incorrectly set. The times
 3 are recorded are one hour earlier than they actually
 4 were. They are all an hour later.
 5 A. So it is 8.24 to 17.05.
 6 Q. Yes, that sounds right.
 7 A. Okay. Is this the entire log? I mean, are you saying
 8 the whole log starts on March -- in March --
 9 Q. This is the file that --
 10 A. -- there's nothing before that.
 11 Q. -- this is the file we looked at and we were looking at
 12 the issues of work done. If you remember we were
 13 discussing work done in April. If you look back to
 14 Day 5 of the transcript the point I was making was that
 15 on the dates where invoices were rendered by Mr Ferguson
 16 for work apparently done by him, that the alarm was not
 17 unset on those days in April. That was the point I put
 18 to you.
 19 A. The point I put back to you I think is that Mr Ferguson
 20 didn't only work in the store, he was working on records
 21 and incinerating at his own workshop. And also he would
 22 do work at his own workshop for, for example, the panels
 23 on the walls --
 24 Q. I have to say that the reference to his workshop is
 25 the first time I think it has ever been mentioned in any

22

1 witness statement, any documents. That is the first
 2 time we have heard reference to him working at his
 3 workshop I think.
 4 A. Have we not mentioned that he would incinerate
 5 documents, my Lord? We have already said that before.
 6 Where would you expect him to do that Mr Potts? In
 7 a forest? It would be at his own workshop, wouldn't it?
 8 Q. I do not think you would usually be incinerating
 9 documents at a workshop. The point I was making is that
 10 the reference to a workshop is a new statement, Mr Vos,
 11 it is not in evidence.
 12 A. Why should we have mentioned his workshop? Obviously he
 13 would have had a workshop. In fact your clients'
 14 enforcement team visited him at his workshop, at his
 15 home, which is where his workshop is.
 16 Q. At his home?
 17 A. Why would I be mentioning his workshop? I know he had
 18 a workshop. Why would we be saying about his workshop?
 19 Q. Shall we move on? I think those are the points in
 20 relation to the transcript. On Friday we finished
 21 discussing the SEP system. We were talking about that,
 22 do you remember?
 23 A. Can I mention one thing, to go back to the hearsay
 24 evidence. It is also interesting to us that the two
 25 people, my Lord, who would know when people were going

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1 in and out of the store -- which was a Ms Kathy Boltwood
 2 who was on reception, and Ms Charlotte Laurie, who was
 3 filling in on reception when she was not there -- were
 4 not interviewed. They would know who was going in and
 5 out of the store because they were standing at the door
 6 of the store, whereas the other staff they interviewed
 7 would be staff who were engaged in work and would not
 8 necessarily know what was going on.
 9 But it is interesting to see that the two people who
 10 would be able to give evidence on that were not
 11 interviewed, or no interview notes were produced for
 12 them.
 13 Q. Fine. Now we were discussing the SEP system, which we
 14 discussed was implemented for self-employed opticians,
 15 dispensing opticians or lab technicians, correct?
 16 A. Yes.
 17 Q. And that is a system approved by HMRC?
 18 A. You say it is approved by HMRC, I think that I have not
 19 seen any evidence of that, but you can show me where.
 20 Q. Okay, if you go to volume C. Ms Mancini's statement at
 21 page 123.
 22 Do you have that? Paragraph 43. Let's deal with
 23 a couple of points. Paragraph 43 deals with:
 24 "The JVPs uploading details of self-employed
 25 ophthalmic opticians, dispensing opticians or lab

24

1 technicians providing services to the store."
 2 Correct?
 3 A. Yes.
 4 Q. "It is important to note that the system is only to be
 5 used by those people."
 6 In fact it used to be called self-employed
 7 opticians, SEO. Do you remember that?
 8 A. I think, yes, I remember it was called SEOs, yes.
 9 Q. So they must indicate when setting up whether the person
 10 is an optician, ophthalmic optician, dispensing optician
 11 or lab technician. There are no other options on
 12 the system, correct?
 13 A. I think there were other options on the system. There
 14 were optical assistants, I think, as well.
 15 Q. Okay.
 16 A. I think there were some optical assistants that we
 17 processed through there as well. I think other people
 18 did as well. But the description "technician" applies
 19 to a wide range of types of technician and we were told
 20 by the accounts department to do it this way.
 21 Q. Yes, your witness statement says, in paragraph 49:
 22 "They informed us~..."
 23 Someone at the accounts department:
 24 "... informed us about putting him on."
 25 You don't say in your witness statement either who

25

1 spoke to the accounts department or who, from
 2 the accounts department, told you to use SEP in your
 3 statement, do you? If it helps would you like to go
 4 back to your statement.
 5 A. No. I agree I couldn't remember who told us but I mean
 6 it was me who spoke to them and I was reminded
 7 afterwards apparently that it may have been somebody
 8 called Teresa, but I couldn't remember who I had spoken
 9 to. But what we had done was we had complained about
 10 the fact that Mr Ferguson -- it was taking so long for
 11 him to be paid and I spoke to them, I said, "Is there
 12 any way we can speed this up?" And they said, "Why
 13 don't you put him on the SEP system?" Which we did. We
 14 sent an invoice which said: "handyman". And that was
 15 returned to us and the lady who I spoke to, when they
 16 returned it to us, said they couldn't pay it on
 17 the handyman because there was no classification for
 18 that. And I said, "What should I put it under?" And
 19 she said, "Put it under technician." Basically
 20 a handyman, or a carpenter and all that falls under
 21 the calculation of a technician as well.
 22 And I wasn't very happy about it Mr Potts because
 23 I didn't think it was a 100 per cent right, but I was
 24 told that that would be all right and we were so used to
 25 having to adjust various systems because Specsavers

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1 systems weren't working properly. For example,
 2 the refund system after the new SOCRATES system went in.
 3 We had to go through hoops to be able to issue a refund
 4 to a customer and even now -- even now today that hasn't
 5 been sorted out because the directors are complaining
 6 between themselves that to issue a refund is almost
 7 an impossibility and they have to make all sorts of
 8 adjustments. And they are concerned that they will be
 9 accused of fraud at some point in the future which they
 10 would be under Mr McAlindon's regime.
 11 Q. Could I ask you to turn paragraph 49 of your statement
 12 up please?
 13 A. Which is in?
 14 Q. B. Page 80.
 15 A. 80.
 16 Q. I think it is 80, it is paragraph 49. 81 on your
 17 version.
 18 A. Yes.
 19 Q. You see what it says is:
 20 "After discussing this with the department, they
 21 informed us ..."
 22 A. What paragraph?
 23 Q. 49. Yes?
 24 A. Yes.
 25 Q. Then over the page you say:

27

1 "We were told ..."
 2 A. Yes.
 3 Q. So the first point is that you don't say that it was you
 4 who spoke to the department at all, do you, in your
 5 statement? It is vague.
 6 A. I don't understand what you are trying to get at.
 7 Mr Weller and I were together at the time when we made
 8 the calls, so we were dealing with it.
 9 Q. I thought your evidence was that you spoke to the
 10 department?
 11 A. I spoke to them but Mr Weller was with me.
 12 Q. Well, why didn't you say that in your statement?
 13 A. Oh dear Mr Potts, I'm terribly sorry I didn't say that
 14 in my statement. But, you know, that was the case.
 15 When I spoke to them, Mr Weller was with me, and
 16 Mr Weller will confirm that, obviously, in his own
 17 evidence.
 18 Q. And you don't refer to the person you spoke to, you
 19 can't remember the name?
 20 A. Not when I did the statement I can't remember the name,
 21 but since then I believe Mr Weller has told me that he
 22 believed that the person's name was Teresa but I can't
 23 confirm that. It doesn't sound like a familiar name to
 24 me.
 25 Q. Sorry?

28

1 A. It doesn't sound a familiar name to me at this moment in
2 time.
3 Q. I put it to you that the reason why your statement is so
4 vague, both as to who spoke to the department and who
5 you spoke to, is because this conversation didn't happen
6 and you wanted to make it more difficult to expose that
7 point?
8 A. Absolute nonsense.
9 Q. I also put it to you that it is improbable that this
10 would have happened given the nature of the system and
11 the guidelines that the HMRC had approved and which
12 operated in relation to that system?
13 A. I don't agree with you because in the Dartford case
14 the loss prevention team itself was putting through
15 self-employed invoices for provision of their staff and
16 they were putting it through as self-employed opticians.
17 Q. Can I ask you to turn up volume E6 please.
18 A. Shall I keep all these other volumes here, I have got
19 quite a lot on the table.
20 Q. You can put the transcripts away. If you have E6?
21 A. Interparty correspondence?
22 Q. That can go.
23 A. Can E1 go away, chronological trial bundle?
24 Q. Yes.
25 A. It is E6 you want me to keep out?

1 Q. Yes, please. Page 1480. You see 1480, just in terms of
2 the detail this says, "SEP invoice process."
3 A. Yes.
4 Q. It says:
5 "SEPs are self-employed professionals: ophthalmologists,
6 audiologists, dispensers, lab technicians, working on
7 a locum basis."
8 A. Yes.
9 Q. And this system automatically generates invoices for
10 them, doesn't it, provided an authorisation code is
11 generated and so on onto the open accounts, yes? Do you
12 see that? It says:
13 "An authorisation code generated must be provided in
14 order to enter the invoice onto open accounts. This is
15 to ensure no fraudulent invoices are paid".
16 A. Okay.
17 Q. You see that? And this system was approved by
18 the Inland Revenue in 2006, Ms Mancini deals with that
19 at paragraph 46.
20 In fact let's look at -- if you have got 1480,
21 the next page. We have looked at these, haven't we?
22 A. 1481?
23 Q. We have looked at the actual invoices in the bundle.
24 A. Yes.
25 Q. And this is a sort of template of what needs to be

1 filled in. So there's the authorisation code and we
2 discussed that in fact that you filled in those codes,
3 didn't you?
4 A. Not in all cases but in some cases.
5 Q. Well, I think we looked at the ones --
6 A. We looked at the Ferguson ones. We have not looked at
7 every single --
8 Q. I'm talking about the Ferguson invoices, let's make it
9 clear. You filled in all the ones for Mr Ferguson,
10 correct?
11 A. I can't say I filled them all in, but I did fill in
12 quite a quantity of them.
13 Q. Okay. I think it was all of them. Then you have got
14 the signatures, which is at the bottom:
15 "To be signed by the SEP and the store
16 director/manager."
17 And you signed all of them?
18 A. Yes. When you say that it was approved by the Inland
19 Revenue, obviously, if Mr Ferguson was a technician in
20 another sense of the word, his national insurance number
21 appeared on all those invoices. So nothing was trying
22 to be hidden and Specsavers obviously produce a report
23 to the Inland Revenue with these national insurance
24 numbers on, so all Mr Ferguson's income that was charged
25 through was being reported to the Inland Revenue anyhow.

1 Q. If you look again at 1481; it makes clear:
2 "We only process invoices for optometrists,
3 dispensers, lab technicians and audiologists."
4 Do you see that at 1481?
5 A. Yes.
6 Q. So which one of those was he?
7 A. He was a technician. And if you look at his invoices it
8 doesn't say "lab technician", it says "technician", as
9 far as I remember. Basically I don't think I have ever
10 seen this document to start with.
11 Q. Well you see in fact there is a code, you see that down
12 the left-hand side "services. "OPHT, DIS, TECH, AUDI".
13 Those are the code options.
14 A. Where is that?
15 Q. There is a box on the left-hand side saying "services"
16 and an arrow in the middle of the right-hand side, it
17 says, "Services for" and "Registration number". You
18 see?
19 A. OPHT, DIS, TECH, AUDI.
20 Q. Yes that coincides with the optometrists, dispensers,
21 lab technician --
22 A. It doesn't say lab technician there, it says technician,
23 doesn't it?
24 Q. The top of the page makes it clear it is lab
25 technicians, doesn't it?

1 A. Well I have not seen the top of that page so ... I have
 2 seen the invoice but the invoice itself that was
 3 generated on the Specsavers system, I actually
 4 replicated that and put it on my system.
 5 Q. You see the point is --
 6 A. The invoices were generated by me.
 7 Q. You see the point is that these SEP invoices contained
 8 no details as to the work carried out, did they? They
 9 were automatic. Correct?
 10 A. Yes.
 11 Q. So the first point is that I put it to you that it is
 12 improbable that this would have happened. It would fly
 13 in the face of the purpose of the system, which is to
 14 cover locums with other third party providers being
 15 dealt with by the green bag system.
 16 I put that to you. Do you accept that?
 17 A. No.
 18 Q. I also put to you that it is contrary to the guidance
 19 provided on the use of the system and those guidance
 20 notes were approved by the HMRC.
 21 A. I have already explained to you that a lot of the
 22 guidance that Specsavers gave was incapable of being
 23 carried out and in Mr Ferguson's case he was being paid
 24 so late, and as a small businessman, a small contractor,
 25 we -- that's Mr Weller and I -- I made the conversation,

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1 Mr Weller was present with me -- had a conversation with
 2 the accounts department, who said we should put it
 3 through as a self-employed invoice. And we put one
 4 through as handyman and that was rejected and came back
 5 to us and we phoned up again and said: this has been
 6 rejected, this is what you told us what to do and they
 7 said: put it through as technician.
 8 You don't appear to be listening to me Mr Potts.
 9 Put it through as a technician. As I have said to you,
 10 this is not unusual in Specsavers that things have to be
 11 tweaked because systems can't cope with things and even,
 12 as I said, your clients' loss prevention team have used
 13 the self employment system to put through services for
 14 their own staff, incorrectly described as "opticians"
 15 when they were actually loss prevention team members.
 16 I think that that evidence has been put in for
 17 Ms Birdi to attend to when it comes to her in this
 18 court.
 19 Q. I put it to you, Mr Vos that the returns made as regards
 20 Mr Ferguson were neither truthful, nor accurate. He was
 21 not a self-employed lab technician, was he?
 22 A. He was a self-employed technician.
 23 Q. Those returns, in the way you put them through, serve to
 24 disguise the fact that you were paying very large sums
 25 of money to a handyman.

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1 A. What would the purpose of that be?
 2 Q. Could you just answer the questions please?
 3 A. No, it wasn't to disguise it.
 4 Q. I also put it to you that no one in the accounts
 5 department told you to do this.
 6 A. And I tell you, Mr Potts, that somebody did.
 7 Q. Mr Ferguson was also entered into onto the SOCRATES
 8 system, we discussed that before; the computer system at
 9 the store, correct?
 10 A. Yes.
 11 Q. He was set up by you as a user on 6th June, with
 12 managerial back office access.
 13 A. Yes.
 14 Q. Why did you do that?
 15 A. Because we wanted him to analyse our contact lens
 16 entries.
 17 Q. You see the staff were asked about this in interview.
 18 I dealt with this with your wife: Claire Stewart said it
 19 was like putting her husband on the system, there's no
 20 reason for it.
 21 A. Well, Mr Ferguson would have had to have access to the
 22 system because we expected him to go into the store and
 23 analyse the contact lens, because Specsavers would not
 24 provide us with details or any reconciliation of our
 25 lens-mail costs against the customers we had on

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1 the lens-mail system.
 2 In the previous years they had provided us with
 3 a list of all contact lens patients we had and they
 4 would give us an invoice for that. What they started
 5 doing was giving us a global invoice, which didn't break
 6 down the contact lens customers that we had. We found
 7 that our contact lens cost of sales had risen from
 8 approximately 38 per cent to I think it was 53 per cent
 9 and we wanted to find out why.
 10 We wrote to Specsavers asking them for reasons.
 11 They would never give us any reasons for it, so we
 12 decided we put somebody onto it and Mr Ferguson is quite
 13 capable of doing that. He is quite computer literate,
 14 he writes his own music on the computer, so he knows how
 15 to work a computer. And as we didn't have the other
 16 staff resources to do it, we thought that we could get
 17 him to do it as we were effectively paying him a fee
 18 anyway.
 19 Q. Why could you not have got the staff to do it?
 20 A. Because our staff was busy working in the business
 21 selling. That was -- their function was to sell, not to
 22 sit analysing something.
 23 Q. Mr Ferguson was the handyman, wasn't he? He came in and
 24 painted the odd wall.
 25 A. No, Mr Ferguson didn't come in and paint the odd wall

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1 Mr Potts. Mr Ferguson did a lot of work keeping that
 2 store up to standard.
 3 Q. And he was providing --
 4 A. And if you take Mr Ferguson's costs over the -- what we
 5 are talking about is costs over six years, compared to
 6 the previous shop that we had, which was £102,000, and
 7 a very ropey job my Lord. When we went in there in 2005
 8 the place was an absolute mess and had to be re-done.
 9 Then in 2009 -- I think it was about 2008 or 2009 --
 10 Mr Nott I believe his name was, came into the store from
 11 Specsavers Property and suggested we had over £100,000
 12 worth more shop fitting done to include some frame backs
 13 which -- we had replaced some of the floor standing
 14 ones, which were very, very poor quality and he wanted
 15 to charge us about £110,000 for that and at schedule,
 16 that it would be done whether we liked it or not. And
 17 never did get round to scheduling it because he actually
 18 left his file in the office and didn't take it away with
 19 him.
 20 So that would have cost us another £100,000. So
 21 that is £200,000 in about eight years.
 22 Q. Right. I'm asking you about putting him on the system.
 23 You describe Mr Ferguson as:
 24 "A self-employed handyman who was providing
 25 straightforward services to local businesses in

1 the area."
 2 In your own witness statement. He was a handyman,
 3 he was not a business analyst, was he?
 4 A. I was not asking him to be a business analyst. I was
 5 asking him to take some figures out of the computer --
 6 from the computer for us and list them out so that
 7 I could analyse them afterward. I would have been
 8 the analyst. All I was asking him to do was a grunt
 9 job. In other words, sit down and produce documents for
 10 me so that I could analyse them.
 11 Q. He didn't do that in fact, did he?
 12 A. We never got round to it, no.
 13 Q. Was the reason you put him on the system in fact to try
 14 to create the impression that he was more greatly
 15 involved in the business than was the case?
 16 A. Why would I have done that?
 17 Q. Could you just answer the question rather than asking
 18 one?
 19 A. No, what would the point of that be Mr Potts?
 20 Q. The date of him being entered on the system wasn't an
 21 accident, was it? You received an email on
 22 26th May 2011 explaining that there were concerns to
 23 discuss unusual financial transactions. You put him
 24 onto the system after that, didn't you?
 25 A. We put him onto the system after Dr Poulson had asked

1 for information, had refused to sign the accounts
 2 because there was outstanding information on the contact
 3 lenses that we wanted to know about. We put him on in
 4 response to that.
 5 Q. Can we move on to E2 please. You can put C away please.
 6 A. E6, do I keep that?
 7 Q. No, that can go. Page 552. Do you need some assistance
 8 with the file?
 9 A. It just seems to have come apart.
 10 MR JUSTICE HILDYARD: Whilst I'm on this, can I make
 11 a special request for a replacement file E2 because mine
 12 has fallen apart too. Not the contents, just the file
 13 because I have marked up the contents.
 14 MR POTTS: One final question -- I'm sorry, since I have had
 15 a moment -- in relation to Mr Ferguson, you say that in
 16 fact he was just going to do -- I think you said some
 17 sort of grunt work effectively.
 18 A. Yes.
 19 Q. In interview in fact you said you were going to get him
 20 to come in and analyse the contact lens sales. It is
 21 slightly different, isn't it?
 22 A. Well, you are playing with semantics now Mr Potts.
 23 Q. Well I'm putting to you what you said. There is
 24 a distinction isn't there, which one was it?
 25 A. It would have been to take out the information we needed

1 so that I could analyse it.
 2 Q. I put it to you that's not the same -- one is doing
 3 analysis, that is to analyse contact lens sales. What
 4 you are suggesting is something rather different, which
 5 is just to pull out some information for you. There is
 6 no analysis involved at all.
 7 A. He would have had to have sit on the computer and he
 8 would have had to look at various files and print out
 9 information or produce information from those files. So
 10 there would have been some analysis to work out which
 11 was which, but the final analysis would have been for
 12 me, to compare our schemes as against what we were being
 13 charged, because he wouldn't have had the invoices for
 14 what we were being charged. I would have had to sit and
 15 compare them. So he would not have had that part of the
 16 analysis to do, it would have been me who did it --
 17 Q. Let's move on to this --
 18 A. -- in the time that I didn't work there.
 19 Q. Let's move on to the letter dated 23rd July. 552, do
 20 you have that? I think it is the final page in the
 21 file.
 22 A. Yes.
 23 Q. Now, this is another document produced by you for
 24 the first time at your interview, wasn't it?
 25 A. When else would I have produced it, Mr Potts?

1 Q. Could you just answer the question. This was a document
2 you produced at the interview?
3 A. It was a document I produced at my interview but I don't
4 understand what the "first time" means:
5 "This is a document produced by you for the first
6 time at your interview?"
7 Q. That is a fair point. You produced it at your
8 interview?
9 A. Yes.
10 Q. It is signed by Dr Poulson and Mr Weller.
11 A. Mmm hmm.
12 Q. Why was this document not in the boxes provided to your
13 solicitors and to SOG?
14 A. I am sure it was. I am sure it probably was.
15 Q. Probably or --
16 A. If it wasn't, it would have been in the file in
17 the office, which also contained the letters to --
18 the similar sort of letters that I wrote to
19 the cleaners, pointing out what they had to do, and
20 which would also have contained Mr Ferguson's public
21 liability insurance policy and also the public liability
22 insurance policies of all the other contractors being
23 used.
24 Q. Do you still maintain that this document was signed on
25 the date it bears?

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1 A. I do, yes.
2 Q. So this begins by dealing with the reference to the use
3 of the SEP system, you see that?
4 "We have spoken to the accounts department~..."
5 A. "We are sorry for the length of time ..."
6 Q. It goes on to say:
7 "We have spoken to our accounts department. The
8 account carries ... cashflow ... they suggest ..."
9 Yes?
10 A. Mmm hmm.
11 Q. I mean, you needed a document to try to justify your
12 misuse of the SEP system, didn't you? Because you knew
13 this was going to come out in the investigation?
14 A. No, I produced this document for two purposes. One to
15 let him know what the situation was, one to make him
16 understand how he was going to be invoicing in future,
17 and secondly because I was uncomfortable with
18 the instruction from the accounts department to use that
19 system I wanted it placed on record. So why wouldn't
20 I have produced it at the time? I think that would have
21 been imprudent of me not to have.
22 Q. Then you go on to say, to refer to:
23 "A regular need to call them out at inconvenient
24 times".
25 A. Yes.

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1 Q. Then there is a reference to this standing payment
2 structure --
3 A. Yes.
4 Q. -- which you implemented through the SEP system?
5 A. Mmm hmm.
6 Q. Again, there is a reference to cost of materials,
7 reference to use of the unit and so on.
8 A. Mmm hmm.
9 Q. There's a lot of reference to the storage unit.
10 A. Yes.
11 Q. Is that because you thought that a reference to him
12 doing lots of work there would help support
13 the payments, because you knew the staff were not going
14 to say he was in the store so you had to show him doing
15 something else, didn't you?
16 A. As I said earlier my Lord, if the correct staff were
17 interviewed they would have confirmed that he was in and
18 out of the store. In other words, if the girl on
19 the reception, who was known as Kathy Boltwood, and
20 the other girl who filled in in between them,
21 Charlotte Laurie -- it is very convenient that there was
22 no witness statement from either of them. They were
23 people who sat at the front desk, at the door of the
24 store. They would have known who was coming in and out.
25 Whereas the other staff that they have produced were all

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1 conveniently -- say the same amount of time that
2 I worked there, or more or less the same amount of time,
3 would have been involved in working in the store and
4 wouldn't have been seeing who was coming in and out of
5 the store.
6 Q. On 5th July, when you were interviewed, you proffered
7 the schedules in relation to his work, which again refer
8 at length to the storage unit.
9 A. Yes.
10 Q. And that is when you produced this letter?
11 A. Mmm hmm. And Mr McAlindon's evidence on this storage
12 unit is that the key fob covers the period from
13 January 2010 until June 2011. And Mr Barnes'
14 investigation report claims that it covers the period
15 from 23rd January 2011 to June 2011. Whereas
16 Mr McAlindon is claiming that Mr Ferguson only attended
17 the store nine times in 17 months. Effectively he
18 actually attended the store nine times in about ten
19 weeks.
20 Q. We will come onto that in a minute.
21 A. Also the other thing, Mr Potts, is that there were two
22 key fobs. Does that cover both key fobs, that
23 information?
24 Q. Can I take you to E4 please? You have raised a number of
25 points and I will come back to them. E4.

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1 A. Can I close this one now?
 2 Q. No, keep that open, I think we may come back to it.
 3 A. Number?
 4 Q. Page 1061, this is your interview.
 5 A. This is the interview that with Mr McAlindon, isn't it,
 6 that I don't accept as being accurate?
 7 Q. Okay. Can you please turn to page 1061, line 443/444.
 8 It was put to you that Mr Ferguson wasn't working at the
 9 store. In fact you yourself, in response, said that he
 10 was clearing out your maintenance unit off site?
 11 A. Mmm hmm.
 12 Q. So you yourself were accepting that he wasn't sort of
 13 showing the level of hours that he was working in
 14 the store, and you yourself were saying: no, no, because
 15 he is working off site, correct?
 16 A. So the actual place he was working was not my point. My
 17 point was he was not working here. I said:
 18 "He does, he has been clearing out our maintenance
 19 shed. That is off site."
 20 Q. So you are saying --
 21 A. No, this is what Mr McAlindon is saying. I am not
 22 saying I said that. But what doesn't tie up is
 23 the words:
 24 "He does, he has been clearing out our
 25 maintenance shed. That is off site. The actual place

1 where he is working is not my point."
 2 That is question 443:
 3 "My point is he is not working here."
 4 My answer according to this says, "He does".
 5 Q. I see then you add --
 6 A. No I am saying that Mr McAlindon has added this. Don't
 7 forget that Mr McAlindon is the secret policeman for
 8 a despotic dictator, who goes around trying to find
 9 evidence against directors and remove evidence that
 10 clears them.
 11 Q. So do you deny saying -- pointing out that he was
 12 carrying out work at the maintenance shed off site?
 13 A. No, I don't deny that because he did carry out work on
 14 the maintenance shed off site.
 15 Q. The point is that you appreciated --
 16 A. Before we finish, I would never have used the word
 17 "maintenance store", because it was not a maintenance
 18 store it was a storage unit. So I would never have used
 19 the word "maintenance shed." If I used the word
 20 "maintenance shed" it would have referred to his own
 21 workshop, my Lord. I would never have used the word
 22 "maintenance shed" for the storage unit. I have never
 23 used the phrase "maintenance shed" anywhere before,
 24 have I?
 25 Q. The point is you appreciated that the staff would say

1 that Mr Ferguson was not in the store to any significant
 2 extent, so you had to concoct a story about him spending
 3 lots of time elsewhere to explain it away.
 4 A. No. I already explained to you that if you had produced
 5 witness statements from the staff who would know whether
 6 Mr Ferguson was in the store or not, you would have
 7 found that they would have said he was coming in and out
 8 of the store. So --
 9 Q. And in order to corroborate that story you composed
 10 the schedules which you produced at interview and you
 11 forged this letter.
 12 A. That's absolute nonsense Mr Potts.
 13 Q. You see the problem is that, like your wife, you failed
 14 to appreciate that there would be computerised records
 15 of the unit. Is that right?
 16 A. I just explained to you, I understand there were
 17 computerised records of the unit. I asked you --
 18 I mentioned to you that there was a second key fob and
 19 I asked you if the records you have produced includes
 20 both key fobs and you conveniently ignored that,
 21 Mr Potts, and came back to the same question again.
 22 Q. Let's deal with -- your wife was very quick in
 23 cross-examination, just like you, to pick up a point of
 24 real detail about the dates. Do you remember that; this
 25 point you just put about the dates?

1 A. Yes.
 2 Q. Can I ask you to pick up E5, please, 1277.
 3 A. Yes.
 4 Q. Your point is that in fact this was 26th January 2011 to
 5 3rd June 2011, correct?
 6 A. Yes.
 7 Q. Can you see the reference is there at 1277 in the middle
 8 of the page. Do you see that? It says:
 9 "From 26th January to 3rd June 2011."
 10 A. Yes.
 11 Q. That's the point you are referring to, is that right?
 12 I think that's point you just put.
 13 A. Yes.
 14 Q. Okay great. If you can turn back to page 1150. Now,
 15 this is Mr Weller's interview, which was recorded
 16 because he agreed to it being recorded. Yes? Do you
 17 have 1150?
 18 A. Yes.
 19 Q. He is being asked at that point about the maintenance
 20 man. He says, if you start at 2020:
 21 "Question: Yes, if I told you that between
 22 the dates of 26th January 2010 and 3rd June 2011 ..."
 23 Then he questions.
 24 "Question: What date, sorry?
 25 "Answer: 26th January 2010 and 3rd June 2011."

1 Yes?
 2 A. Mmm hmm.
 3 Q. :
 4 "Question: Somebody has entered nine times for
 5 a total time of 7 hours and 61 minutes."
 6 So the first point is the dates tally with
 7 the reports. It is 26th January and 3rd June. The only
 8 thing is in the report there appears to be obviously
 9 a typo, it drops the reference--- there isn't
 10 a reference to 2010, but these are the dates -- this is
 11 the period that he is talking about, correct.
 12 A. So there's a convenient typo, is there, Mr Potts?
 13 Q. Will you take it from me that the 26th January and
 14 3rd June are the two dates they are talking about,
 15 correct?
 16 A. Well, I can tell you one thing, if that is the period it
 17 covers then it is a complete and utter lie. For him to
 18 have only attended nine times in 17 months is
 19 an absolute impossibility, because in that time we had
 20 a lot of work done in the store. Don't shoot me down.
 21 It is an absolute impossibility that he only attended
 22 nine times in 17 months. So I think that this interview
 23 with Mr Weller, which he seems confused about, where he
 24 says:
 25 "I don't know what to say."

1 Means that he is aghast that he only attended nine
 2 times in 17 months, or there is the allegation that he
 3 only attended nine times in 17 months. And, once again
 4 I ask you a question: does that refer to both key fobs
 5 or just one key fob?
 6 Q. Can I deal with the questions I'm asking please Mr Vos?
 7 A. Okay.
 8 Q. The first point is the point you were at pains to make
 9 and your wife was at pains to make was that the report
 10 was inconsistent with evidence. I put to you that the
 11 explanation is clear from this as to the dates, that all
 12 that has happened is that the first reference to
 13 the date 2010 in the Europe is a typo. Do you accept
 14 that?
 15 A. No, I don't accept that Mr Potts and I think, my Lord,
 16 that there must have been some source document that they
 17 had extracted this information from and I asked Mr Potts
 18 last time to show me the source document and he kept
 19 referring back to these interview notes. So if you show
 20 me the source document -- somebody must have produced
 21 a report, Mr Potts, whether it is the storage company or
 22 whether the key fob was read on a computer, some
 23 document must have been produced to state this.
 24 Or are these just more words from Mr Barnes and
 25 Mr McAlindon again?

1 Q. Can I put the second point to you. It is in terms of
 2 the timing, because you took an issue over the timing.
 3 There is a slightly unusual, and perhaps unorthodox,
 4 reference to 7 hours and 61 minutes, but if you work out
 5 the maths on that, that is actually an unorthodox way of
 6 saying 8 hours and 1 minute, which is precisely the same
 7 figure which is in Mr McAlindon's witness statement,
 8 which you also challenge.
 9 Do you accept they are the same figure?
 10 A. I don't know --
 11 Q. Well --
 12 A. -- is the answer.
 13 Q. Is 7 hours and 61 minutes the same as saying 8 hours and
 14 1 minute?
 15 A. Why would someone say 7 hours and 61 minutes?
 16 Q. Just answer the question --
 17 A. Yes, it is the same as 8 hours and 1 minute.
 18 Q. And that is the figure which is in Mr McAlindon's
 19 witness statement which you have challenged?
 20 A. What, 8 hours and 1 minute?
 21 Q. You say that that time is inconsistent with the report.
 22 A. I said that the nine hours was inconsistent with the
 23 report. The nine visits.
 24 Q. And this is the same reference to nine visits as well
 25 isn't it, in both the report and the interview?

1 A. Yes. I'm saying that if that's what Mr McAlindon is
 2 claiming then it is fixed, because there's no way that
 3 Mr Ferguson only attended the store nine times in
 4 17 months. I know for a fact that there was one patient
 5 record that had gone -- a patient had approached us,
 6 my Lord, for her record which was six years previous and
 7 asked us to produce the record, and under the data
 8 protection Act we were required to produce the record,
 9 and these records were all in the storage unit. And
 10 I know Mr Ferguson must have attended the store at least
 11 ten or 15 times before this to find that record.
 12 So, in the period we are talking about. So it is
 13 absolute nonsense that he could only have been in there
 14 nine times in 17 months.
 15 Q. And this challenge to this point by reference to
 16 a second key fob, the first time this had ever been
 17 raised is by you in your witness box right now, Mr Vos,
 18 isn't it?
 19 A. Well, because I had been thinking about it Mr Potts.
 20 I had been thinking that this key fob you are talking
 21 about, which is the one that has nine activations on it,
 22 was only given -- was only received by Mr Barnes when he
 23 collected the items from the solicitors because it was
 24 in that box. Yet, Mr Barnes in his interviews with all
 25 of us had said that he had been into the unit. And

1 I know that obviously in all these cases you wouldn't
 2 just have one key fob, you would have a back-up key fob,
 3 and I know that I had a key fob in this blue box that
 4 you claim doesn't exist, above the HP printer in
 5 the office. The spare key fob was kept in there.
 6 That is the key fob that Mr Barnes obviously used to
 7 get into the storage unit before he received the key fob
 8 that Mr Ferguson was using at the time.
 9 Q. There is no reference to this second key fob as
 10 an explanation in any of your witness statements in this
 11 action, is there?
 12 A. No.
 13 Q. There's no mention of it in the rebuttal statement which
 14 you produced after receiving the investigation report?
 15 A. Because it wouldn't have been necessary to rebut it.
 16 Q. Well, the issues of the fobs was raised in
 17 the investigation report, wasn't it, very clearly?
 18 A. In the investigation report.
 19 Q. Which you received in September?
 20 A. Yes.
 21 Q. You produced a detailed rebuttal to that which we have
 22 looked at. It doesn't mention this point about a second
 23 key fob there either, does it?
 24 A. No.
 25 Q. I put it to you you are making this up as you go along

1 in order to try to explain away the difficulties in your
 2 case?
 3 A. No, there's absolutely no difficulties in my case
 4 my Lord. Obviously there would have been a second key
 5 fob and that would have been kept in the box and how
 6 does one explain -- obviously I have worked this all out
 7 in my mind, but how does one explain how Mr Barnes
 8 managed to get into the storage unit prior to him
 9 receiving the key fob that Mr Ferguson had? So it has
 10 to have been the second key fob.
 11 Q. I put it to you that this letter of 23rd July was
 12 a self-serving forgery, produced in order to deal with
 13 difficult issues you were facing in the investigations.
 14 A. It was not.
 15 Q. Your wife and Mr Weller conspired with you in that
 16 regard by signing this letter.
 17 A. They did not.
 18 Q. That was an attempt to pervert the course of the
 19 investigation, wasn't it?
 20 A. It was not.
 21 Q. And it is indeed an attempt to pervert the course of the
 22 evidence before this court now.
 23 A. It is not.
 24 Q. It is and was dishonesty of the very highest order.
 25 A. It was not.

1 Q. Mr Vos, the metadata for this document was also
 2 requested by SOG's solicitors on 2nd May 2013. Now if
 3 you pick up F1, page 199.
 4 A. F1?
 5 Q. Yes. Page 199. This is the response from your
 6 solicitors. It was requested on 2nd May, this is
 7 the response on the 13th. This is document 144.
 8 The response is:
 9 "We are instructed that documents 144 ... prepared
 10 from templates supplied by your clients, which were
 11 later overwritten when new employees commenced with
 12 the company."
 13 The originals are stored on the one memory stick.
 14 Now just looking back at this letter, the first point,
 15 this letter has nothing to do with the template, does
 16 it? Certainly not a template supplied by SOG.
 17 That is not a template document.
 18 A. No, I think that that reference is not to that
 19 particular document.
 20 Q. Just look at the top page. 144, you can see in
 21 manuscript, that is the document 144.
 22 You go back to the letter:
 23 "We are instructed the document 144 [this is
 24 the document we are talking about] ... prepared from
 25 templates supplied by my clients ..."

1 That is not true, is it?
 2 A. Obviously it is not. No. I mean that's obviously
 3 an error on the part of our solicitors.
 4 Q. You appreciate that this was an important issue.
 5 The genuineness of these documents was a key matter
 6 which you know is in issue in these proceedings. This
 7 is a matter you would have taken care over, isn't it, in
 8 your responses?
 9 A. Obviously. I mean I don't know whether I was
 10 responsible for this reply. But:
 11 "... instructed that documents 142 and 144 ..."
 12 I do think that some of these documents would have
 13 got mixed up.
 14 Q. So the answer is incorrect?
 15 A. Well, obviously if this is 144 we are talking about and
 16 this is 144 here, then obviously this answer from
 17 the solicitors is not correct.
 18 Q. Secondly I put to you --
 19 A. But I didn't write the letter Mr Potts.
 20 Q. It would have been done on instructions. It says, "We
 21 are instructed", yes?
 22 A. Yes.
 23 Q. They are not making it up, are they?
 24 A. No.
 25 Q. I put to you that the person who is making it up is you,

1 Mr Vos.
 2 A. No that is not true, Mr Potts.
 3 Q. Secondly, it is also remarkably convenient to say in
 4 this letter that the documents were on a USB stick,
 5 because by that point you know that Specsavers doesn't
 6 have any USB stick, because you yourselves -- it has
 7 been confirmed on 2nd May that they didn't have this
 8 alleged USB stick.
 9 You can see that at page 182. At the bottom of the
 10 page, paragraph 9. If you remember we went through
 11 that. The existence of this USB stick was something
 12 that was raised well after disclosure had taken place by
 13 your solicitors.
 14 A. Yes, and I said that the disclosures actually said that
 15 all documents et cetera had to be disclosed. So I don't
 16 understand why you are bringing the same thing up again
 17 but there were USB sticks there. In fact your clients
 18 have come back, when we asked for USB sticks under
 19 the control of Sarah Scott and Alan Verrell to be
 20 produced, saying those are personal USB sticks and they
 21 don't need to disclose them.
 22 Q. I put it to you that the story you put forward, through
 23 your solicitors, in relation to this document was
 24 a false one and you knew you were not able to produce --
 25 it was an excuse for not providing soft copy of this

1 document. You put forward a false and inaccurate
 2 response in order to deal with the difficulties over
 3 this document.
 4 A. That's nonsense.
 5 Q. My Lord, would that be a convenient moment for
 6 the break?
 7 MR JUSTICE HILDYARD: Yes. 11.40 am.
 8 (11.30 am)
 9 (A short break)
 10 (11.40 am)
 11 MR POTTS: Mr Vos, before the break I was dealing with
 12 a couple of points on disclosure and you asserted
 13 a matter in relation to the USB fob, saying that there
 14 was some -- I think effectively some refusal to deal
 15 with the point, saying they belonged to other
 16 individuals.
 17 Could you please pick up F1 please. In the middle
 18 of the page, between the two punches, the point was
 19 actually made --
 20 A. Page?
 21 Q. Page 205.
 22 A. Yes.
 23 Q. It says:
 24 "In respect of your comments regarding the alleged
 25 storage devices [3] we repeat that the store has been

1 thoroughly checked and our clients have been unable to
 2 find the device we referred to."
 3 Then the point is made about Scott and Verrell.
 4 The point is there was a search undertaken, they were
 5 not found and that had been confirmed, correct?
 6 A. What this actually says:
 7 "In any event we also note that you stated that
 8 these three alleged devices ... stated that Sarah Scott
 9 and now also Alan Verrell and not our clients exercised
 10 control over two of these three alleged devices. It is
 11 irrelevant that these individuals were employees of the
 12 Bognor store because our client's disclosure obligations
 13 did not extend to making individual enquiries of each
 14 member of store staff as part of the disclosure process.
 15 To do so would have been grossly disproportionate. As
 16 matters stood we were required to review tens of
 17 thousands of irrelevant documents on behalf of our
 18 clients."
 19 I would have said that those USB sticks were very
 20 relevant documents, or very relevant storage devices,
 21 and for your clients just to -- when it is pointed out
 22 to them that those devices were there, just to fob us
 23 off saying that these were under the control of two of
 24 the employees and not your clients.
 25 The two individuals concerned were members of

1 the store staff and what your client is actually saying
 2 is that it is not necessary to produce documents held by
 3 members of the store staff which are relevant to the
 4 case.
 5 Q. Let's just break that down. The first point which is
 6 made is that in fact when the disclosure order was
 7 agreed, there was no -- prior to that there were
 8 detailed discussions about it and there was no
 9 suggestion at that time that there were USB sticks that
 10 needed to be searched by your side.
 11 The second point is that the USB stick you are
 12 talking about here is your USB stick; it is not theirs
 13 anyway, is it?
 14 A. There are three USB sticks.
 15 Q. In this case you are talking about your stick.
 16 A. Not my stick, it belongs to the company Mr Potts,
 17 precisely as the other USB sticks belongs to the
 18 company; they are company documents. It is not my
 19 personal USB stick. It was a USB stick that was holding
 20 company documentation as were the two which were used by
 21 Sarah Scott and Alan Verrell. They didn't own them,
 22 they contained company documents. And the scope of the
 23 search was that all company documents would be produced.
 24 So they should have been printed off and produced,
 25 just as any other documents in the store that was on any

1 media would have been produced and printed off.
 2 Q. I'm not sure I can take this much further with you
 3 Mr Vos, but the point is it is confirmed there that none
 4 of these three devices were -- a search was thoroughly
 5 checked and they were not found.
 6 A. I don't believe a word of that Mr Potts because the loss
 7 prevention team has a reputation of destroying
 8 information if it wants to.
 9 Q. Let's go back, you raised a point about the fob. We
 10 have gone back over the break and gone back to the
 11 disclosure which has been provided in this case.
 12 (Documents handed).
 13 This isn't a new document, it is a document which
 14 has already been disclosed, but it is not in the bundle.
 15 This is an email from Zoe Smith to Mr Barnes and she
 16 reports:
 17 "Just had a phone call from Chris, the manager of
 18 the storage facility. She gave me the following
 19 information ..."
 20 And there is the breakdown of the times in and out
 21 and I think it comes up to 7.61, which is the 8 hours
 22 and 1 minute.
 23 A. Once again, this is a letter from Zoe Smith to
 24 Phil Barnes and I can't see any records from Chris,
 25 the manager of the storage facility, in Bognor. This is

1 just between Specsavers people, so once again, I don't
 2 believe what it says.
 3 Q. So you are saying it is a concocted document? That they
 4 had a phone call and it is setting out the information
 5 that has been provided over the phone?
 6 A. I wouldn't know. As I say, that is absolutely
 7 impossible.
 8 Q. In relation to the -- this is recording access to
 9 the facility, isn't it?
 10 A. According to Zoe Smith.
 11 Q. Nothing to do with fobs, it is access to the facility?
 12 A. Well, according to you the information is taken off
 13 the key fobs, Mr Potts. Your argument has been --
 14 Q. No --
 15 A. Excuse me, but your argument has been that we didn't
 16 appreciate that the key fobs would produce
 17 the information on access and that to the store. Now we
 18 are saying that the key fobs have nothing to do with it,
 19 this is a document produced by the store -- the facility
 20 itself.
 21 Q. Mr Vos, you are grasping for straws.
 22 A. No I'm not.
 23 Q. The fob is an electronic access. The store records
 24 the access of those electronic fobs to the store and
 25 this is the computer records recording the access to

1 the store.
 2 MR STUART: My Lord, I hesitate to jump up, but this is
 3 the computer record, recording the -- where does it say
 4 any of that and what evidence is my learned friend
 5 relying upon?
 6 MR JUSTICE HILDYARD: Mr Potts, what is the status of this
 7 document and why is it admissible?
 8 MR POTTS: My Lord --
 9 MR JUSTICE HILDYARD: It has not been in the agreed bundle.
 10 MR POTTS: It is disclosed.
 11 MR JUSTICE HILDYARD: It may be disclosed, but it isn't in
 12 an agreed bundle. It appears to give double hearsay
 13 evidence of a computer --
 14 MR STUART: There is no mention of a computer my Lord --
 15 MR JUSTICE HILDYARD: Well, it is double hearsay evidence
 16 from a source unknown. Is it really right to be
 17 confronting this witness with this sort of document?
 18 MR POTTS: My Lord, the point is Mr Vos asked to be provided
 19 with the information. This is what we have. My Lord,
 20 if time is required to consider it, I accept the points.
 21 It wasn't intended to --
 22 MR JUSTICE HILDYARD: I will let Mr Stuart takes this as he
 23 thinks fit, but I have to say at the moment, especially
 24 having regard to the fact it is not in an agreed bundle
 25 and therefore does not, as it were, exhibit itself, I am

1 troubled that this sort of document should be put before
 2 the witness with a verification which really comes from
 3 you. So I'm troubled by this.
 4 MR POTTS: My Lord, we will consider the point over
 5 the short adjournment. I won't take it any further now.
 6 Now, dealing -- to conclude the issues on
 7 disclosure. Disclosure was to be provided by
 8 Mr Ferguson as well, correct?
 9 A. That was the original intention.
 10 Q. And indeed, in fact, there was an undertaking given to
 11 use all reasonable endeavours to procure -- to ensure
 12 that both you and Mr Ferguson undertook electronic and
 13 hard copy searches on the same basis as the claimants in
 14 the action?
 15 A. Yes.
 16 Q. Then at F1, 153, when this was queried, the absence of
 17 documentation from him, you did provide disclosure
 18 didn't you? We looked at that before.
 19 A. I did, all the documents I had.
 20 Q. On 28th March your solicitors confirm there was no list
 21 from Mr Ferguson:
 22 "... as he doesn't consider he has anything at all
 23 relevant to disclose."
 24 A. Yes.
 25 Q. In response at 173 --

1 A. I don't have a 173 I'm afraid.
 2 Q. No, I don't either. Sorry, 176 actually. My mistake.
 3 A. It says 1727/5.
 4 Q. Do you have 176?
 5 A. Yes.
 6 Q. Bottom of the page. The response is:
 7 "This is extraordinary, not credible. He is
 8 a self-employed businessman who would, for example, need
 9 to keep all of his own receipts and records of work,
 10 income or business expenses for, inter alia, self
 11 assessment tax purposes."
 12 Then there is a reference over the page to:
 13 "The assertion that he left all documentary
 14 evidence, including receipts, in the cupboards in the
 15 store, does not tally with the usual practices of
 16 self-employed businessmen. Confirmed by a search of the
 17 store."
 18 Because there was no documentation. Do you see
 19 that?
 20 A. Yes.
 21 Q. So I put to you that if Mr Ferguson was conducting huge
 22 amounts of work, there would have been records to back
 23 that up, wouldn't there?
 24 A. There certainly were.
 25 Q. There were no documents to support his work, were there?

1 A. Are you talking about in the store? Or --
 2 Q. He didn't produce them and he would have had to retain
 3 them wouldn't he, for his tax purposes?
 4 A. Well probably he would have, yes.
 5 Q. None were disclosed by him.
 6 A. Well, Mr Ferguson had originally voluntarily agreed,
 7 after me talking to him, to be a witness in this case.
 8 However, following him being accosted twice on his
 9 doorstep, without invitation, by the loss prevention
 10 team who came in a very threatening manner and actually
 11 confronted his father, who had just had a major
 12 operation, and upset his father. And then Mr Marsh of
 13 Taylor Wessing, having written to him the day before
 14 the New Year holiday, threatening him that if he doesn't
 15 confirm that he would produce documentation -- if he
 16 didn't confirm within seven days he would produce
 17 documentation, all sorts of bad things would happen to
 18 him, like applications to the court et cetera. He got
 19 very angry with myself and Dr Poulson over this and he
 20 said, "I don't want to be involved in this, you have
 21 got -- all I was was supplying a service, you have got
 22 all the records related to my supply of those services,
 23 including copies of (inaudible) et cetera. I just don't
 24 want to be involved".
 25 And we had to respect that. We did try again

1 a number of times to get him involved, but he is -- and
 2 especially after hearing about the assault by the loss
 3 prevention team on Mr Barry Weller, he was just not
 4 prepared to become involved.
 5 Q. The contact in fact with Mr Ferguson was at the time of
 6 the investigation, wasn't it, not later?
 7 A. Mr Marsh's contact was later.
 8 Q. No, but the contact earlier which you refer to, was at
 9 the time of the investigation; they were trying to get
 10 some information from him at the time of the
 11 investigation, correct?
 12 A. Well, they rocked up on his doorstep, as he said, like
 13 a couple of -- he didn't know who they were, whether
 14 they were local thugs trying to gain access to his home.
 15 That was the contact that was made on two occasions,
 16 yes. Not the sort of contact you would expect from
 17 a respectable organisation, my Lord, where they may have
 18 written to him and said, "Can you please confirm what
 19 has been happening?"
 20 Besides the fact that Specsavers knew that
 21 Mr Ferguson was our witness and they should not have
 22 been banging on his door and frightening him.
 23 Q. Sorry, the contact with him, as I said, again, was well
 24 before the commencement of these proceedings; it was at
 25 the time of the investigation.

1 A. It was, yes.
 2 Q. But he did agree to provide disclosure, is that right?
 3 A. He did, up to the point of Mr Marsh's letter from Taylor
 4 Wessing.
 5 Q. There's no suggestion that he said, "Actually no, I am
 6 not prepared to give disclosure", in this letter.
 7 The confirmation was that he didn't think that he had
 8 anything relevant to provide.
 9 A. Yes, and he didn't have anything relevant to provide.
 10 Q. They are quite different things. One is to say, "No,
 11 I'm not going to get involved and not going to give
 12 disclosure", and another one is to say, "I'm going to
 13 comply with the disclosure obligation but I don't have
 14 anything relevant."
 15 A. No, his comment to me Mr Potts -- and once again you
 16 twist words around and carry on so you can get your
 17 point across -- his comment to me was: I don't want to
 18 get involved and in any event I don't have anything
 19 relevant to disclose. So that is the way it was put to
 20 me. You can fiddle around with the words as much as you
 21 like but that is the way it was.
 22 Q. Now let's just break down the final chronology. You
 23 were copied with the investigation report on
 24 15th September, correct? Do you remember that?
 25 A. Yes.

1 Q. The board meeting was convened --
 2 A. Yes.
 3 Q. -- at which it was resolved that the disciplinary
 4 procedures would be instigated against you?
 5 A. Yes.
 6 Q. Your grievance appeal was dealt with by a letter on
 7 6th October, do you remember that?
 8 A. Yes.
 9 Q. And then you have produced the detailed rebuttal
 10 document on 28th September, correct, which we looked at?
 11 A. We produced it between us, yes.
 12 Q. And then you resigned?
 13 A. Yes, the sequence of events, Mr Potts, was that by
 14 15th July 2011 we had all undertaken investigation
 15 interviews with the loss prevention team. And we heard
 16 absolutely nothing between 15th July and towards the end
 17 of September, when Dr Poulson put in a witness statement
 18 for Mr and Mrs Parham in an ET case that they were
 19 running. Immediately after she put in that witness
 20 statement this investigation report suddenly appeared.
 21 So it took them July, August, September to produce this
 22 completed investigation report.
 23 Then this board meeting. Having spoken to our
 24 solicitors and having dealt with the case, we decided
 25 that things -- the way that Specsavers was operating

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1 there was very little point in attending this board
 2 meeting. So we all resigned and that was it.
 3 Now Specsavers did nothing after that until December
 4 or early December, when our solicitors informed them
 5 that we are going to take them to the High Court. So
 6 suddenly they concluded that we had -- this is now five
 7 months later -- suddenly concluded that we had been
 8 fraudulent and dishonest and they were going to seize
 9 our shares. And that was an attempt, my Lord, to
 10 prevent us taking the action, because they then made
 11 application I believe -- but our solicitors can confirm
 12 this -- they then made application to have the case
 13 struck out because we no longer held -- Dr Poulson and
 14 Mr Weller no longer held the shares.
 15 So that is the sequence of events.
 16 MR POTTS: I'm not sure if the sequence is quite right but
 17 it doesn't matter for these purposes. You did commence
 18 and discontinued employment proceedings, correct?
 19 A. We did.
 20 Q. And in fact, as I said, the rebuttal -- I think you had
 21 some 13 days between receiving the investigation report
 22 and putting your rebuttal in 13 days later?
 23 A. If you say so.
 24 Q. Just a couple of points on your witness statement.
 25 Paragraph 209 you say, at page 110.

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1 A. 209 is on page 111.
 2 Q. I'm sorry, yes. We have slightly different versions.
 3 You refer to -- a key allegation in the report was that
 4 Mr Ferguson and you were running a building maintenance
 5 company together called Parkside Management (Worthing)
 6 Limited.
 7 A. Yes.
 8 Q. Could you turn up E5 please. 1265.
 9 A. Yes.
 10 Q. If you go through to 1287, the details of the payments
 11 to Mr Ferguson.
 12 A. 1287?
 13 Q. Yes. There isn't anything in this report put to you
 14 that -- containing -- it is certainly not a key
 15 allegation, there's nothing in the investigation report
 16 containing the allegation you refer to in your witness
 17 statement at all, is there? This is the section
 18 dealing --
 19 A. Well, it forms part of Ms Sarah Scott's hearsay evidence
 20 doesn't it?
 21 Q. That is a slightly different point, isn't it Mr Vos,
 22 with respect? You say that it was a key allegation in
 23 the report. In fact the analysis dealing with
 24 Mr Ferguson at this stage makes no mention of it at all.
 25 A. It is in the reports by Sarah Scott.

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1 Q. In the last four pages of the 29 page report dealing
 2 with the multiple disciplinary allegations, not one of
 3 them is that you were running the company together as
 4 a maintenance company, is there?
 5 A. No, I can't see anything about that there, I have
 6 obviously picked it up from somewhere.
 7 Q. To be fair to you, Mr Vos, if you go back to 1279
 8 the only reference in the whole 29 pages of the report
 9 is a passing reference at the third bullet point dealing
 10 with the interviews, where she said that she thought
 11 that Mr Ferguson provided work for you as part of
 12 your -- of a -- I think what is referred to as "property
 13 maintenance company, Parkside."
 14 A. That is all part of the same report, isn't it, Mr Potts?
 15 Q. Yes. I'm just trying to be fair to you, Mr Vos, I'm
 16 just saying that that's the only reference to it.
 17 Just going back to your statement. In paragraph 242
 18 you refer to Mr McGowan.
 19 A. Yes.
 20 Q. You say at the bottom of the page, this is after --
 21 where was this? In October 2011.
 22 A. We are talking about 244 now?
 23 Q. Let's say -- no let's go for 242, start there.
 24 The events in relation to Mr McGowan. You say half way
 25 down the paragraph that:

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1 "Mr Weller stood in front of his vehicle [that's
 2 Mr McGowan's] to stop his escape. The man drove
 3 the vehicle at Mr Weller and made contact with him,
 4 pushing him backwards into a vehicle parked in front of
 5 him, did a speedy U turn and sped off down the road in
 6 an irresponsible manner as children from the school were
 7 crossing the road."
 8 A. Yes.
 9 Q. Now, Mr McGowan's evidence is that what happened was
 10 that Mr Weller stood directly -- did stand directly in
 11 front of the car but he asked Mr Weller to move firstly.
 12 Now you don't mention that in that statement, are
 13 you saying that didn't happen?
 14 A. I don't know how he asked Mr Weller to move, because he
 15 was in his car with the door shut with the engine
 16 running, so how did he ask him to move Mr Potts?
 17 Q. Well, let's say that he gesticulated to say "Move out of
 18 the way."
 19 A. He may well have gesticulated --
 20 Q. You don't refer to that in your statement, do you?
 21 A. Unfortunately I was on the phone to the police at the
 22 time. So all I could see was Mr Weller standing in
 23 front of the car, I wasn't watching to see whether
 24 Mr Potts [sic] was speaking or gesticulating to him,
 25 I was trying to speak to the police. I saw Mr McGowan

1 move forward into Mr Weller and knock him into the car
 2 that was next to him. So I don't know whether he was
 3 gesticulating or not.
 4 Q. So you didn't see the incident very clearly because --
 5 A. I saw the incident very clearly because I saw the car go
 6 into Mr Weller. I didn't say I was looking into
 7 Mr McGowan's car to see what he was doing.
 8 Q. So you were not in a position to see what Mr McGowan was
 9 doing in the car, is that right?
 10 A. No, I wouldn't -- I couldn't see him gesticulating.
 11 Q. Which is it? Either you weren't in a position to see
 12 him because you were on the phone, or you were able to
 13 see him and just didn't?
 14 A. I was on the telephone, the car was approximately
 15 the distance between myself and Mr -- our barrister --
 16 Q. Mr Stuart.
 17 A. -- and I was trying to phone the police. I told
 18 Mr Weller to stand in front of the car so that we could
 19 get the police down and he could not get away, because
 20 he had been caught filming Mr Weller's children and his
 21 wife on his property, and we were very concerned about
 22 that because Mr Weller originally thought that there was
 23 a paedophile taking pictures of his children.
 24 So we actually confronted Mr McGowan, who jumped
 25 into his car and started revving it up. I told

1 Mr Weller to stand in front of the car while
 2 I telephoned the police so they could come down, and
 3 with that Mr McGowan surged forward, knocked Mr Weller
 4 over into the car behind him, did a U turn and sped down
 5 the road. I wasn't sitting watching to see what
 6 Mr McGowan was doing in the car my Lord. The distance
 7 anyhow I would haven't have been able to see whether he
 8 was gesticulating or not. But the sides of the car,
 9 with Mr Weller standing in front of it, I saw very
 10 clearly.
 11 Q. Mr McGowan's position is that having gesticulated that
 12 he should move out of the way he edged forward by about
 13 2 inches, at which point Mr Weller moved out of the way.
 14 Are you saying that didn't happen or you couldn't
 15 see?
 16 A. I am saying that didn't happen, I'm saying I saw him run
 17 into Mr Weller.
 18 Q. Furthermore, the car didn't make contact with Mr Weller
 19 at all, did it?
 20 A. That is a lie. Mr McGowan is lying.
 21 Q. Mr Weller didn't fall over, and there was no indication
 22 at the time that he was injured at all.
 23 A. There was, he was limping. He was limping, besides
 24 being very distraught and upset.
 25 Q. Can I just turn briefly to your third witness statement

1 put in on 15th November.
 2 A. What page is that?
 3 Q. I think it is at the back of the bundle.
 4 A. Back of bundle E5?
 5 Q. No B, with the witness statements.
 6 (Pause).
 7 A. Page?
 8 Q. Page 169, I think. Can you just have a look at
 9 paragraphs 6 and 7.
 10 A. Yes.
 11 Q. This is a reference to a case of Curtis v J&G Oldfield,
 12 Tax Cases, 1925. You say in paragraph 7:
 13 "As I understand the principle laid down in the
 14 case ..."
 15 Then you go on to say the principle.
 16 Was the basis of your understanding an explanation
 17 provided by your lawyer?
 18 A. Yes.
 19 Q. Paragraph 15 of the statement refers to some sophistry
 20 on behalf of Specsavers. Do you see that?
 21 A. Yes.
 22 Q. Now that, and indeed the rest of this statement, is
 23 almost identical to the language used by Ms Parham in
 24 her statement -- similar statement, which was filed at
 25 the same time in the Uckfield (inaudible)?

1 A. Yes.
 2 Q. The reality is that you actually have no evidence to
 3 give on these matters, do you? This is just legal
 4 submissions drafted by your lawyers rather than any
 5 evidence by you?
 6 A. Well, I mean this is discussions with our lawyers and
 7 Mrs Parham at the time, to bring this evidence in. And
 8 I am sure that our lawyers will argue it.
 9 Q. Indeed. I mean the almost identical nature of the
 10 language, it is not just a similarity, that just by
 11 sheer chance you happened to use the same wording as
 12 Ms Parham --
 13 A. No, obviously we have the same solicitor.
 14 Q. It is just your lawyer's words, isn't it?
 15 A. Right yes. After our lawyers had explained it to us in
 16 great detail. He didn't just put the words in there and
 17 asked us to sign that. He had actually sat down with us
 18 and given us a full explanation of what this was about.
 19 MR POTTS: On the basis, Mr Vos, that you have no relevant
 20 evidence to give in relation to these matters I don't
 21 propose to cross-examine further on these legal
 22 submissions and I have no further questions.
 23 Re-examination by MR STUART
 24 MR STUART: Mr Vos, I'm going to ask you some questions in
 25 re-examination. I will take matters in the same order

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1 in which Mr Potts took them.
 2 Can we start with the issue of the Optimisation
 3 invoices. You were taken to the analysis document in
 4 bundle 7, right at the back of E7. 1761, 1762 and then
 5 1763.
 6 A. Yes.
 7 Q. It was put to you that this is an analysis, it is
 8 accepted, an analysis of the invoices that were put in
 9 by Optimisation and then Finestone from 1763. Do you
 10 see that?
 11 A. I do.
 12 Q. It was suggested to you that by comparing that summary
 13 total with bundle E2, page 372, which was Optimisation
 14 Healthcare's accounts, 372-4 I think is probably
 15 the best page you were taken to, where we were shown two
 16 years' worth of turnover figures. Do you see that?
 17 A. Mmm hmm.
 18 Q. It was suggested to you that by comparing the two, that
 19 is the figures in the 1761 analysis with the figures in
 20 the Optimisation Healthcare Group Limited's accounts,
 21 that the total of the invoices -- by way of example, it
 22 was said it was 97 per cent of the turnover of
 23 Optimisation Healthcare.
 24 A. Yes.
 25 Q. Do you see that?

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1 A. Mmm hmm.
 2 Q. So we are taking the year to July 2007, by way of
 3 example on page 372-4. If we go back to page 1761, if
 4 we take all of the items from item 12, do you see on the
 5 left-hand side there are line numbers?
 6 A. Yes.
 7 Q. So the first item that would fall within that year would
 8 appear to be 12. That is 31st August. There's a bill,
 9 do you see that?
 10 A. Yes.
 11 Q. The last one that covers this period would be item 42,
 12 do you see that?
 13 A. Yes.
 14 Q. 30th July. Those invoices -- we can go to some of them
 15 if we need to -- they are described in this analysis --
 16 do you see columns E and F, some are for professional
 17 fees amounts and some are for disbursements?
 18 A. Yes.
 19 Q. My question is, in relation to the turnover figure in
 20 the Optimisation Healthcare Group accounts for the year
 21 in question, does that include both professional fee
 22 amounts and disbursements or not? So page 272-4 you
 23 have a turnover figure of 27,641.
 24 A. I see in the notes to the accounts under "turnover", it
 25 says:

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1 "Turnover represents management and professional
 2 fees received ..."
 3 On page 372-7:
 4 "... and the recovery expenses incurred on behalf of
 5 the client, plus a 10 per cent mark up. The company's
 6 turnover arises in the United Kingdom as stated net of
 7 value added tax."
 8 Q. So my question is, within that figure -- who drew up
 9 these accounts?
 10 A. One of my bookkeepers.
 11 Q. Okay. Who gave him the information?
 12 A. They would have been provided with the information on
 13 a monthly basis to write up the books.
 14 Q. By whom?
 15 A. By me.
 16 Q. When you put in the information did you include all
 17 these invoices which are for disbursements?
 18 A. I would have, yes.
 19 Q. Okay.
 20 A. But the only disbursements that would be covered under
 21 that turnover would be those that there was
 22 a 10 per cent mark up for, because there was a profit on
 23 those.
 24 Q. Okay. Now you were asked at length, both at the outset
 25 and this morning Mr Potts took you back to the

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1 transcript of Friday's evidence -- you were asked about
2 these two different types of invoice for Optimisation;
3 the ones for your services that say Godfrey Vos
4 et cetera and the others. I just want to get clear
5 which ones you are talking about here. Whilst we are in
6 E2 I just want you to identify what we have got.
7 If you go to page, as an example, page 295. Do you
8 have that?
9 A. Yes, I have got 295.
10 Q. That is one you were taken to. It's got all the way
11 down the right-hand side W Godfrey Vos FASA. Do you see
12 that one?
13 A. I do.
14 Q. Take page 302.
15 A. Yes.
16 Q. Do you see that?
17 A. Mmm hmm.
18 Q. That is a different format of document.
19 A. Yes, that would have been on Optimisation Healthcare
20 Group letterhead.
21 Q. That is what I want to get clear. So what you describe
22 as the Optimisation Healthcare Group invoices --
23 A. Yes.
24 Q. -- rather than what you call the W Godfrey Vos FASA
25 invoices, you are differentiating between, as

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1 an example, 295 --
2 A. Yes.
3 Q. -- is what you describe as a W Godfrey Vos FASA-type
4 invoice, and 302 as being the Optimisation Healthcare
5 invoice?
6 A. That is right.
7 Q. When the matter was raised with you by Mr Rowe -- when
8 I say you, I mean your wife and Mr Weller -- raised with
9 them, and thus you in 2008, that's what you were asked
10 about --
11 A. Yes.
12 Q. -- which type of invoices do you say he was referring
13 to?
14 A. He was referring to the invoices from -- the 302-type
15 invoice.
16 Q. So --
17 A. Because his comment was this is the type of thing that
18 should be done through the eBis system.
19 Q. So his letter is at 330. I think. It is an email
20 actually, 29th February:
21 "Hi Helle and Barry, we need to organise a date when
22 we can get together to discuss an issue that has arisen
23 over the last few weeks. I have been contacted by
24 Guernsey with concerns over the invoicing from
25 the company, Optimisation Healthcare Group."

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1 Do you see that?
2 A. I do.
3 Q. You say that that is in relation to the invoices at
4 page 302 through to -- it must be 329-1, is that right?
5 A. Yes. As you can see there's only one there that's
6 actually on notepaper. I assume that must be
7 Specsavers' disclosure. It says Optimisation Healthcare
8 Group on the top.
9 Q. Is that 329-1 you are referring to?
10 A. Yes. The others which are my file copies or --
11 obviously not on notepaper, would have looked exactly
12 like that. So it is Optimisation Healthcare Group they
13 were querying, not W Godfrey Vos invoices at the time.
14 Q. Right. Just to see the payment methods here. On those
15 ones, which is 302 through to 329 and 329-1, they say:
16 "Make cheques payable to Optimisation Healthcare
17 Group Limited or paid by BACS ..."
18 To a certain bank account. Do you see that?
19 A. Yes.
20 Q. If you just go back to, as an example, 295.
21 A. Yes.
22 Q. Do you see that?
23 A. Mmm hmm.
24 Q. That is an example of what you describe as
25 a W Godfrey Vos invoice.

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1 A. Yes.
2 Q. The payment direction seems to be now within the box.
3 Bottom left-hand corner within the box.
4 A. Yes.
5 Q. Payments made to WG Vos account.
6 A. Yes.
7 Q. Can you explain that to the court?
8 A. Well, that would have been WG Vos Accountancy Services'
9 account.
10 Q. All right. Now, the next type of invoice that I want
11 you to clarify is in E2 at 541-1.
12 A. Oh yes.
13 Q. But that's obviously Finestone. Do you see that?
14 A. Yes.
15 Q. You gave evidence to Mr Potts that you didn't change to
16 Finestone until after the meeting with Mr Rowe, and you
17 explained why and I'm not going to go through all of
18 that.
19 A. Yes.
20 Q. My question is, did you have the same sort of
21 W Godfrey Vos-type invoices for Finestone?
22 A. No.
23 Q. Okay.
24 A. When you say, sorry, "W Godfrey Vos invoices for
25 Finestone" -- Finestone Financial Services after --

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1 Q. Yes.
 2 A. Yes, I did have those invoices.
 3 Q. Okay. I was going to take you to bundle E1. I think
 4 106 I wanted to take you to and then the equivalent
 5 versions. Just so we can get clear for everybody what
 6 we have got in here, if you go to page 106 in bundle E1,
 7 do you see there, through to page 154?
 8 A. There is lots of stuff in between it.
 9 Q. 106 through to 154, certainly in my file, are all
 10 similar looking documents.
 11 A. Yes.
 12 Q. They are in a template format?
 13 A. Yes.
 14 Q. Can you just explain what those are?
 15 A. Those are all W Godfrey Vos invoices.
 16 Q. They don't have W Godfrey Vos FASA Accountancy Services
 17 written down the right-hand side of them.
 18 A. Not 106 to.
 19 Q. No. So what are these, just to get clear?
 20 A. These are W Godfrey Vos invoices, my file copies.
 21 Q. Your file copies. Then if we go to 154-1 we see, it
 22 appears -- page 106 seems to be the same document but in
 23 a different format.
 24 A. Well, this is the document that would have arrived in
 25 Guernsey, isn't it? This is a disclosure by them.

1 Q. Okay. So 154-1 through to 154-39 -- is it? So 154-1
 2 through to 154 -- 33, just to be clear, 154-1 through to
 3 154-33 these are Specsavers' copies of invoices?
 4 A. That must be their copies, yes.
 5 Q. Looking at those -- let's take a page, go to 154-23,
 6 June 2007, that is the £1,900 invoice. Do you recall
 7 that one?
 8 A. Yes.
 9 Q. That's all about your services. W Godfrey Vos'
 10 services. But then go over the page, 154-24.
 11 A. Yes.
 12 Q. 12 days later there's an invoice --
 13 A. Mmm hmm.
 14 Q. -- which looks similar in that it's still got
 15 the W Godfrey Vos FASA Accountancy Services all down
 16 the side. But the content of it is disbursements, £340.
 17 A. That is right.
 18 Q. So can you just explain how you -- when you are talking
 19 about Mr Rowe querying invoices, and you say he was only
 20 querying your -- not your personal invoices but
 21 the Optimisation Healthcare invoices?
 22 A. Yes, he was querying invoices which had the heading
 23 Optimisation Healthcare Group Limited on it, which we
 24 saw a bit earlier. He was not querying W Godfrey Vos
 25 FASA Accountancy Services' invoices, which may have had

1 Optimisation Healthcare Group in very small letters at
 2 the bottom. He wasn't querying those. And this
 3 particular invoice was -- you see it is a staff
 4 Christmas party paid at the Hilton Avisford Park Hotel,
 5 which I had used my American Express card to pay. That
 6 was a personal expense of mine I was trying to get
 7 a recovery for.
 8 Q. Okay. Was Mr Rowe --
 9 A. There is a copy of the actual invoice in there.
 10 Q. Was Mr Rowe aware of who you were, ie your connection
 11 with Dr Poulson, before he wrote his email of
 12 February 2008?
 13 A. I'm pretty sure he was, yes, because he had visited
 14 the store soon after he became a RDM or whatever
 15 initials he had. And he had a meeting with Barry and
 16 Helle and I was in the store at the time and met him.
 17 Q. Perhaps the easiest way for me to take this, if you go
 18 to Mr Rowe's evidence, bundle C, page 95.
 19 Tab 5, Mr Rowe's evidence, page 95. At the top of
 20 95 there is a heading, "Unusual invoices rendered to
 21 the Bognor store company". Do you see that?
 22 A. Yes.
 23 Q. What Mr Rowe is now saying, he says, paragraph 13:
 24 "The claimants have alleged that Adrian Deane
 25 discovered the payments to Mr Vos in August 2005.

1 Mr Deane informs me he has no recollection of this. As
 2 far as I'm aware the payments to Mr Vos, as explained
 3 below, first came to the attention of SOG in early
 4 2008."
 5 Do you see that?
 6 A. Yes.
 7 Q. Then he says he was contacted by Jill Clark, who had
 8 been liaising with Mr Deane in respect of some unusual
 9 invoices that had been addressed to Bognor Regis
 10 Specsavers:
 11 "Spoke with Ms Clark who explained she had noticed
 12 some unusual payments being made by the store to
 13 a company called Optimisation Healthcare Group
 14 Limited~..."
 15 So payments to that company:
 16 "... Dr Poulson was a director of that company."
 17 Do you see that?
 18 A. Yes.
 19 Q. "Plainly this was unusual because it meant that
 20 Dr Poulson was approving invoices for payment by
 21 the store to a third party in which she was a director.
 22 Further, it appeared that the invoices were only ever
 23 for payment by Dr Poulson. We did not know whether
 24 Mr Weller was aware that the payments were being made."
 25 So he is asserting that he was investigating

1 an issue about whether Dr Poulson was disclosing to
 2 Mr Weller her co-partner; do you see that?
 3 A. Yes.
 4 Q. Do you recall whether that was the issue or not?
 5 A. I think the issue was these payments by -- to
 6 Optimisation Healthcare Group -- and I know that at the
 7 meeting Dr Poulson got very upset because she said that
 8 Mr Rowe was -- she believed he was trying to accuse her
 9 of theft.
 10 Q. That is the issue on 40. Then he says:
 11 "In addition there were also invoices which had been
 12 rendered by 'W Godfrey Vos FASA Accountancy Services.'
 13 This was also unusual because there is no need for store
 14 companies to pay for external accountancy/advice, SOG
 15 provides accountancy services. Furthermore, as
 16 explained below, W Godfrey Vos is Dr Poulsen's husband
 17 and it was not clear whether Mr Weller was aware of
 18 these invoices."
 19 So he is obviously differentiating that there are
 20 two types of invoice.
 21 A. Yes.
 22 Q. And he is making the same point about Mr Weller knowing
 23 about the two types.
 24 A. Yes.
 25 Q. Were you aware of that at the time?

1 A. I was, yes.
 2 But as you can see he doesn't mention W Godfrey --
 3 he differentiates completely between Optimisation and
 4 W Godfrey Vos invoices, he doesn't tie Optimisation into
 5 W Godfrey Vos at all, does he?
 6 Q. Okay. Then 17:
 7 "I contacted the claimants on 29th February ..."
 8 That is the email we saw:
 9 "... and asked them if they would meet me to discuss
 10 concerns regarding the invoices from Optimisation
 11 Healthcare Group and those from Mr Vos".
 12 Do you see that?
 13 A. I do.
 14 Q. So were you aware, when your wife went to the meeting
 15 with him, with Mr Rowe -- that Mr Rowe wanted to deal
 16 with the two types of invoice, the two issues if I can
 17 call it that?
 18 A. I thought that he was dealing basically with
 19 the Optimisation Healthcare Group invoices.
 20 Q. Over the page at paragraph 18 he refers to the email of
 21 3rd March?
 22 A. If I could say something Mr Stuart. I thought it was
 23 only Optimisation Healthcare Group invoices, and I think
 24 Dr Poulsen and Mr Weller also thought that because his
 25 e-mails did not differentiate, as you just pointed out,

1 between two different entities.
 2 Q. Let's just get it -- I want to get this clear.
 3 Paragraph 18 he then deals with what the response to
 4 that was by email, which is E2, page 331.
 5 This is the email to Mr Rowe, reference the visit,
 6 subject matter is:
 7 "Ref visit and conversation ref Optimisation
 8 Healthcare Group".
 9 Do you see that?
 10 A. Yes.
 11 Q. Just to put it into context we better go back to the
 12 previous page. 330 was his email that I have already
 13 taken you to.
 14 A. Yes.
 15 Q. "I have been contacted by Guernsey with concerns from
 16 a company Optimisation Healthcare Group."
 17 Do you see?
 18 A. Mmm hmm.
 19 Q. The response is this one of 3rd March 2008. I'm trying
 20 to find it but I couldn't find it. I think Mr Potts got
 21 you to agree that you wrote this email because of the
 22 use of the inverted commas in the words "recover" and
 23 "blow" and things like that?
 24 A. Yes.
 25 Q. Did you write that email?

1 A. I would have, yes.
 2 Q. What were you responding to there then?
 3 A. I was responding to the enquiry about -- well they got
 4 the name wrong to start with because it said "Optical
 5 Healthcare Group", but I was responding to -- well,
 6 I believed an inquiry into Optimisation Healthcare
 7 Group's invoices.
 8 Q. As differentiated, by Mr Rowe at least, from the ones
 9 from you, from Mr Vos?
 10 A. That is right, yes.
 11 Q. Understood. All right.
 12 You were next taken at length to this question of
 13 the signatures and who signed off these invoices. Do
 14 you remember that? This is E1, page 154. Do you recall
 15 that? You were taken to a number of the invoices and it
 16 was pointed out that the signature on those invoices at
 17 times appears to cross out the name "Mr Weller". Do you
 18 see that?
 19 A. I can, yes.
 20 Q. I want to get clear what your evidence is about this.
 21 Is this you signing or not?
 22 A. Well, if you look at 154-3, if you look at 154-4, that's
 23 definitely Dr Poulson's signature.
 24 Q. That's Dr Poulson's signature?
 25 A. That's Dr Poulson's signature. That's definitely her

1 signature. And 154-2 is her signature. 154-1 you can't
 2 see anything. That's also her signature.
 3 Q. Sorry, which one did you just say?
 4 A. 154-1. That's her squiggle, which is what she also puts
 5 on her patient records.
 6 So those are her signatures.
 7 Q. The point that was put to you was that the sort of
 8 squiggly line underneath whatever it says, perhaps it
 9 begins with a P, the squiggly line appears to cross
 10 through the name Mr Barry Weller. That's what Mr Potts
 11 put to you. Do you recall that?
 12 A. I do.
 13 Q. That's really my question. Is the squiggle crossing
 14 through Mr Weller? Take, for example, page 154-8.
 15 A. Yes.
 16 Q. Do you say that's one written by you or by your wife?
 17 A. That's one written by me, but the squiggle crosses out
 18 Dr Poulson and Mr Weller on that one.
 19 Q. I see, okay. If we go up to the time when the invoices
 20 changed to Finestone. So 154-36 as an example.
 21 A. Yes.
 22 Q. That's obviously not Dr Poulson or yourself?
 23 A. That's Mr --
 24 Q. I say obviously, I had better ask you.
 25 Who signed that one, 154-36?

1 A. Mr Barry Weller.
 2 Q. And 154-37?
 3 A. Barry Weller.
 4 Q. 38?
 5 A. Barry Weller.
 6 Q. 39?
 7 A. Mr Barry Weller.
 8 Q. Was there some reason for that, for the change between
 9 signing, either you or your wife --
 10 A. Because of the criticism, yes we changed it.
 11 Q. What criticism are you talking about?
 12 A. Well, I mean the allegations, first of all, that
 13 Dr Poulson was processing these invoices, or I was
 14 processing these invoices without Mr Weller being aware
 15 of it. Irrespective of the fact that even before that
 16 all of them says, "Your reference, Dr Poulson and
 17 Mr Weller", we wanted to make sure that there could be
 18 no argument that Mr Weller was aware of it, so we asked
 19 him to sign them in future.
 20 As I explained to Mr Potts when we were discussing
 21 these invoices, that we would sit around the table -- in
 22 fact my dining room table -- in the evenings and go
 23 through all these invoices and previously I would have
 24 had a stack of invoices in front of me or Dr Poulson or
 25 someone would have a stack of invoices in front of them

1 and sign them all. In these particular instances, from
 2 that point onwards, we made sure that Mr Weller signed
 3 them so that there could be no further nonsense
 4 allegations from Specsavers.
 5 Q. Okay, the final type of invoice I need to ask you about
 6 then is 154-53 to 54. Which is a different format of
 7 invoice.
 8 A. Yes.
 9 Q. Can you just explain to the court what these two are.
 10 These are dated April 2008, do you see that?
 11 A. Aha.
 12 Q. Can you explain what happened here?
 13 A. What happened here was as you can see they were not
 14 paying my invoices on time. And it was taking quite
 15 a long time to pay them and that's why you see that
 16 surcharge. So, I had spoken to the accounts department
 17 and said: would there be a quicker way of paying me?
 18 And they said: well, why don't you put yourself on
 19 the SEP system, exactly the same as they did with
 20 Mr Ferguson?
 21 So I put myself on the SEP system for those number
 22 of invoices that were there and then the girl on the --
 23 after telling me to do that the girl then phoned me up
 24 and said: we don't have an allocation for locum
 25 administration services, do you mind rendering your

1 invoices as you used to? Go back to the way you used to
 2 do it and I will see that they get paid on time.
 3 Q. Okay. That's all of the invoices we need to deal with
 4 and signatures. You can put E1 away and C you can put
 5 away.
 6 I just want to ask you very briefly about E2.
 7 Page 450 you were asked about. We are moving on now to
 8 the meeting with Mr Dyson in 2009.
 9 A. Yes.
 10 Q. I think you confirmed to Mr Potts that you wrote this,
 11 this is a note of the meeting.
 12 A. Well, I wrote it on Dr Poulson's dictation basically and
 13 from her notes; we sat down together and did it.
 14 Q. It was suggested to you that about half way down it says
 15 "Details of meetings", where it actually purports to set
 16 out what happened in the meeting.
 17 A. Yes.
 18 Q. Above that there is a section marked "background", do
 19 you see that?
 20 A. Yes.
 21 Q. It was put to you that that's not the meeting, that's
 22 just you creating a document to support your own case,
 23 is that right?
 24 A. That is right, yes.
 25 Q. What was the purpose of creating this document?

1 A. Well, Dr Poulson has a habit of making sure she makes
2 notes on absolutely everything she does or everything
3 that happens to her, and the purpose of it was for her
4 to have a record of what occurred -- had occurred at
5 that meeting.
6 Q. Now, you were then asked about the creation of another
7 document, E7, page 1673. Specifically 1676.
8 A. Yes.
9 Q. Just as it had been put to your wife, it was
10 suggested -- you agreed you had created this document,
11 do you remember?
12 A. Yes.
13 Q. And it was suggested to you --
14 A. We sat down together and created the document.
15 Q. Yes. It was suggested to you by Mr Potts that you put
16 this together to bolster your own case and that on
17 the first page of it, it appears, on its face, to be
18 addressed to Mr Ferguson?
19 A. Yes.
20 Q. For example, at the bottom Mr Potts read to you:
21 "You will cover the reasonable cost of materials and
22 traveling out of your fee. If major work to be carried
23 out speak to us about sourcing. Provide us with notice
24 if you are not going to be available."
25 That is plainly words addressed to Mr Ferguson, not

1 to Specsavers or anybody else; do you see that?
2 A. Mmm hmm.
3 Q. It was suggested to you that you have created this in
4 2011 --
5 A. Yes.
6 Q. -- shortly before your interview --
7 A. Mmm hmm.
8 Q. -- but that you have sought to make it look like it is
9 a document from 2009 I think. I am not sure.
10 A. Yes.
11 Q. I want to ask you, how did you generate the text for
12 this document?
13 A. I can't remember now, I think we typed it out, I'm not
14 sure.
15 Q. The first page does indeed, as it was put to you it
16 seems to be addressed to Mr Ferguson, it says "You
17 will... " et cetera, do you see that?
18 A. Yes.
19 Q. It is a list of things. It is telling him what to do.
20 Check this, check that, remove this, check that; do you
21 see that?
22 A. Yes.
23 Q. Over the page -- and this is all one document by
24 the way. This is document 157 on the list, if you see
25 it, and it is referred to in the investigation

1 interview. The second page, under the heading, "General
2 comments", do you see that?
3 A. Yes.
4 Q. Page 1677. That is not on its face reading it addressed
5 to Mr Ferguson?
6 A. No.
7 Q. Because for example, five lines from the bottom it
8 reads:
9 "The remedial work could not be undertaken in store
10 opening hours and was undertaken at night and on Sundays
11 by John Ferguson over a period of time until the store
12 was up to acceptable retail standards".
13 Last line "he has", so it is obviously referring to
14 Mr Ferguson.
15 So how did you create this document, part of it
16 addressed to Mr Ferguson, part of it describing what he
17 Mr Ferguson had done; how did you create that?
18 A. All I can say is we obviously pasted this bit onto
19 the other document, I don't know, I cannot remember why.
20 I can't remember why we would have done this in
21 the first place to Mr Ferguson, I think we may have been
22 sitting down just saying what we would have instructed
23 him to do at the time. I mean, it was a waste of time
24 to actually give Mr Ferguson a list this comprehensive
25 anyhow because we needed to instruct him basically job

1 by job. Other than the ones that he was -- knew he had
2 to do, like going down to the storage unit.
3 Q. The next page after the bit, "General comments",
4 et cetera is a list of 57 things which is said, on
5 the face of the top of 1678:
6 "Some of the work carried out by Mr Ferguson, mostly
7 carried out after hours, at night or on a Sunday."
8 Do you see that?
9 A. Yes.
10 Q. It was suggested to you that you had created this
11 document in order to support the suggestion that
12 Mr Ferguson did lots of work of a general nature, not
13 simply the very limited amount of work which Specsavers
14 say he did?
15 A. Yes, he produced this at the time of the investigation.
16 Q. Yes. Where did you get the information from to fill in
17 all these details, these 57 things --
18 A. We sat together trying to remember what we had done.
19 Q. It was suggested, as I say that this was you just
20 creating this list. Would you go to page 779 in bundle
21 E3? Let's go straight to 826 in E3.
22 A. Yes.
23 Q. This is an internal email within the investigations
24 department, 826. But it attaches all the documents
25 that are then -- we then find in the bundle after that,

1 827 through to 856.
2 These are Mr Ferguson's invoices for the period
3 before he went on to the SEP system, do you see that?
4 A. That is right.
5 Q. I just want to ask you about a few of them. First of
6 all, I want to ask you this, just so we can get a system
7 here as to who has seen these invoices. Let's take 827
8 as the first one.
9 MR POTTS: My Lord, I hesitate, I didn't cross-examine on
10 any of these documents.
11 MR STUART: Absolutely right, you cross-examined about
12 whether Mr Ferguson did work and I'm going to re-examine
13 on some documents that show what the position is.
14 I just want to get clear who has seen these.
15 Mr Vos, we see your squiggle or somebody's squiggle in
16 a Specsavers Bognor Regis stamp on page 827?
17 A. Yes.
18 Q. To the left of the box there's something that says Tara,
19 5th April 2006.
20 A. Yes.
21 Q. Is that somebody within the store or is that somebody at
22 Specsavers?
23 A. That's somebody at Specsavers.
24 Q. So let's go, for example, to page 832. Perhaps I should
25 have asked you, these invoices, who drafted the text in

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1 the box? Is that Mr Ferguson or is that you helping?
2 A. No, Mr Ferguson did these.
3 Q. So this is him -- I'm taking 832 as an example:
4 "Repairing leak, repairing hot water cylinder,
5 moving records to secure lockup, tidying lockup, setting
6 up system to retrieve records, repairing desk and
7 testing room, moving equipment and delay racks, general
8 maintenance work et cetera."
9 So he has written all of that.
10 A. Yes.
11 Q. Is that you who have squiggled on that?
12 A. Yes.
13 Q. And that's then been sent into Specsavers?
14 A. That is right.
15 Q. The next one, 833:
16 "Moving records to storage, Christmas decorations,
17 repairs."
18 Is that -- he has written all of that?
19 A. Yes. I was quite firm with him about giving me a proper
20 record of what was happening.
21 Q. At 835 he is:
22 "Installing staff training DVD 7TV."
23 Is that right? He installs electrical equipment as
24 well?
25 A. Well, I mean installing a DVD would have been because it

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1 was up on the wall somewhere, I think he would have had
2 to have put a shelf up for it and plug it into
3 the television. He would have been doing some work on
4 the walls et cetera to get it up there and moving other
5 stuff around to make room for it. Installation of a DVD
6 obviously is a matter of just plugging it in and making
7 sure that the television could understand it. So tuning
8 it in basically.
9 Q. Page 839. Because we see different name stamps. Say
10 839 as an example. That one seems to have been signed
11 by Mr Weller.
12 A. 838 and 839 are signed by Mr Weller.
13 Q. But then the stamp on 839 now says "Rachel"?
14 A. That is right.
15 Q. Is that somebody at your store or somebody up at
16 Specsavers?
17 A. That is somebody at Specsavers.
18 Q. 840, he is dealing with the Saniflo system and the air
19 conditioning. Does he deal with those?
20 A. Yes. One of the things he had to do was in
21 the downstairs testing rooms the air conditioning was
22 pumping out a very, very bad smell, almost a sewage type
23 smell, and he had to basically -- we found out it had
24 something to do with the Saniflo system in the building,
25 so he had to remove the walls in the testing room,

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1 I believe, to clear out the actual pipes. I think that
2 he actually replaced some of the pipes.
3 Q. Okay.
4 A. There was a sort of a backdraft, where the smell came
5 back into the store.
6 Q. I'm not going to take you through all of these now. You
7 were asked this morning by Mr Potts about Mr Ferguson.
8 You were being asked about why he was put on to
9 the computer system to do what you describe as computer
10 analysis or not analysis et cetera. What is
11 Mr Ferguson's background, what does he do, what is his
12 experience?
13 A. I believe that Mr Ferguson in his early days worked
14 somewhere up in London. I think he may have worked --
15 I remember him mentioning Spinks, the coin people,
16 I think he worked for at some point in time. So he was
17 in administrative work and I think that my feeling is
18 that he had some sort of breakdown from pressure in
19 the job and he decided that he was going to do things
20 that didn't put him under that pressure, or where he
21 wasn't working for somebody, so he started doing
22 maintenance work.
23 Q. Okay.
24 A. But he is very skilled with a computer because he
25 actually writes his own music on the computer and plays

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1 all sorts of instruments on it. So he knows how
 2 a computer works.
 3 Q. Whilst we are dealing with him, let's just finish off on
 4 these documents that were put to you this morning about
 5 him. You were shown a document which purports to be
 6 a list of times when he visited the lock up.
 7 A. Is this the loose one?
 8 Q. Yes. For the whole of 2010 it is, according to this,
 9 said that he visited on 26th January, 1st July and
 10 29th November. So three visits, one for 12 minutes, one
 11 for an hour and one for 5 minutes?
 12 A. Mmm hmm.
 13 MR POTTS: My Lord, I was stopped from cross-examining on
 14 this document and my friend now seeks to re-examine on
 15 it.
 16 MR STUART: I think I was told I would be allowed to.
 17 MR JUSTICE HILDYARD: I think I may have made myself
 18 unclear, I don't know, but I was going to ask you if you
 19 wanted to take any point as to the status of these
 20 documents.
 21 MR STUART: Sorry my Lord, I thought you had allowed them.
 22 MR JUSTICE HILDYARD: I do not think it would be right for
 23 Mr Potts not to be able to rely on the documents but for
 24 you to, unless you are going to adopt them as evidence.
 25 MR STUART: I don't wish to rely on them, there is no

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1 reliability to the document.
 2 MR JUSTICE HILDYARD: You can take your own course, but I do
 3 not think you can have it both ways.
 4 MR STUART: No I don't wish to. I had understood that the
 5 document had been put up to the witness and I just
 6 wanted to clarify --
 7 MR JUSTICE HILDYARD: My understanding, so we should be
 8 clear, is that Mr Potts withdrew reliance or reference
 9 to the document on the grounds that its status was
 10 unclear. Is that correct?
 11 MR POTTS: My Lord, at this stage. It may be we can discuss
 12 the point separately, but yes.
 13 MR JUSTICE HILDYARD: I think we are going to take -- think
 14 about it over the short adjournment and if, insofar as
 15 is necessary, I will allow some further exploration if
 16 that's agreed between you.
 17 MR STUART: My Lord fine.
 18 Let me just deal very briefly then with what was put
 19 up to you, which was this schedule of what is said to be
 20 the schedule of the times when the store alarm was
 21 activated.
 22 A. Yes.
 23 Q. Do you recall?
 24 A. I do.
 25 Q. This is in relation to the allegation in

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1 the investigation report and investigation relating to
 2 some SEP invoices for Mr Ferguson for this first week of
 3 April 2011, which I think have now been put into
 4 the bundle at -- E7, hopefully into everybody's bundle,
 5 right at the back of E7, 1759-1?
 6 MR JUSTICE HILDYARD: This goes in as that, does it? Where
 7 is this going in?
 8 MR STUART: My Lord, which one is that? Is that
 9 the covering letter?
 10 MR JUSTICE HILDYARD: I'm not quite sure what we are looking
 11 at at the moment.
 12 MR STUART: I was looking at these invoices, and then they
 13 were to be compared with this log.
 14 My Lord, the log hasn't -- that is the list --
 15 the computer list has not yet gone into the bundle.
 16 MR JUSTICE HILDYARD: Right.
 17 MR STUART: But we all have a copy. Perhaps we could
 18 conveniently --
 19 MR JUSTICE HILDYARD: Nor has the covering email, has it?
 20 MR STUART: Nor has the covering email, no?
 21 MR JUSTICE HILDYARD: And do these go into the bundle?
 22 MR STUART: I suppose they should my Lord, they were put in
 23 evidence and put to the witness, so they should.
 24 MR JUSTICE HILDYARD: Would you like to deal with this at
 25 2 o'clock. I don't know how much longer you have got

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1 but if you tidy it up and let me know where they go in
 2 then we can deal with it then.
 3 (1.00 pm)
 4 (The short adjournment)
 5 (2.00 pm)
 6 MR STUART: So Mr Vos, I was asking you about these alarm
 7 records and the invoices and what you need to do is you
 8 need to have open E4, page 1082-03. And this is
 9 important. We already have a page 1082-3 and these have
 10 been inserted as 1082-01/02/03/04.
 11 Do you see that? Do you have a 1082-03?
 12 A. I do, yes.
 13 Q. Does your Lordship have those?
 14 MR JUSTICE HILDYARD: I do, thank you. Yes.
 15 MR STUART: If you have that open and also have open bundle
 16 E7, page 1759-1.
 17 A. Yes.
 18 Q. And what was put to you by Mr Potts was that the invoice
 19 at 1759-1 and/or 1759-2, if you go over the page to 2,
 20 and 3, these are the invoices -- the SEP invoices for
 21 Mr Ferguson's work for the period from effectively
 22 28th March 2011 -- page 1759-1. Do you see it says
 23 Monday 28/03/2011 about half way down?
 24 A. Yes.
 25 Q. Then we see Tuesday 29/03/2011. Thursday 31/03/2011.

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1 Friday 1/4/2011. Then you have to go to the top of the
2 box for 2nd April 2011. Do you see that?
3 A. Yes.
4 Q. Then over the page we see an invoice dated 6th April,
5 which is for the Monday, Tuesday, Wednesday, 4th, 5th,
6 6th April. Do you see that?
7 A. Yes.
8 Q. And that is to be compared with page 182--- 1082-03 --
9 A. Yes.
10 Q. -- where the records show that the alarm at the shop
11 was -- shows that it was, as it were, disarmed, so
12 presumably there was somebody in the shop on a Sunday,
13 unusually, between -- I think we have to read this as
14 8.35 in the morning and 2.47 in the afternoon, because
15 you have to add an hour on to the record, do you see?
16 A. Yes.
17 Q. On a Sunday. The shop not being open on a Sunday for
18 trading.
19 A. Yes.
20 Q. You see that? It was pointed out to you that
21 the invoice records don't appear to show any claim for
22 work on that Sunday.
23 A. Yes.
24 Q. Nor for work on the next Sunday, which would be
25 10th April, if you go to page 1759-3.

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1 A. Yes.
2 Q. There's no 10th April item, do you see that?
3 A. Yes.
4 Q. On 10th April it appears -- going back to page 1082-03,
5 it appears that the alarm was disarmed for quite
6 a period of time. That would be 8.59 am through to
7 10.16 pm. Do you see that? That would be about
8 13 hours for Sunday 10th. You add an hour to
9 the numbers?
10 A. Yes.
11 Q. Do you see that?
12 A. Mmm hmm.
13 Q. So the point being made was the 13 hours that somebody
14 is at the shop on Sunday 10th, but no record of
15 Mr Ferguson charging for Sunday 10th. Do you see that?
16 A. Yes.
17 Q. Right. Let me ask you the questions about these
18 invoices first. 1759-1/2 and 3. Who inserted
19 the details onto this version of the invoice?
20 A. I would have.
21 Q. The date of the item -- so let's take 1759-1, you have
22 inserted in the date columns items for 28th, 29th, 31st
23 1st and 2nd April but not 3rd April.
24 A. Yes.
25 Q. Can you explain that?

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1 A. So we are at 2nd April, are we?
2 Q. 2nd April seems to be a Saturday, according to this
3 record anyway?
4 A. 3rd April is a Sunday.
5 Q. 3rd April is a Sunday and there is no -- in your invoice
6 that you say you prepared for Mr Ferguson and sent it
7 in, there's no item 3rd April?
8 A. That was probably put through on Monday 4th. Because he
9 would have notified me on Monday that he worked on
10 the Sunday.
11 Q. So the dates that you have inserted in the date column,
12 what do those dates refer to then?
13 A. Well, obviously in that -- you know as he had worked on
14 that weekend, of course the only person who could
15 possibly have been in the store on those weekends would
16 have been Mr Ferguson. He obviously notified me on
17 the Monday so I put that in on the Monday. So I would
18 have done that on the 4th and on the 11th.
19 Q. Okay.
20 A. I'm not 100 per cent sure at this time how he did it at
21 the time, but my working papers on this obviously would
22 have been in the store which -- Specsavers claim that
23 there's no papers there, because the actual calculations
24 for doing these invoices and the vouchers that were
25 attached thereto were put in a little plastic Jiffy bag,

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1 the same that we use for the client records. Then that
2 was placed in a bottom drawer of a filing cabinet on
3 the right-hand side of the office together with
4 the paying in slips and petty cash vouchers. And
5 Specsavers claim that there were no documents there at
6 all, but in their report or their complaint to the HMRC
7 they managed to analyse all those documents that weren't
8 there.
9 But my workings as to you how this went on
10 the invoice would be in those working papers.
11 Q. Just to get it clear, who gave you the information as to
12 what dates he had been working?
13 A. Well, he had have given me the information as to when he
14 worked but we would have said to him: you need to go in
15 and do this, that and the other so we would have all
16 known about it, I think that, at that time, because he
17 was going on holiday, we had asked him to tidy up
18 the store and make sure there was nothing that could
19 break while he was away, so he needed to check all
20 the hinges on all the doors and on the frame cabinet
21 doors and anything -- and touch up and that sort of
22 thing.
23 Q. Okay. Just whilst we are on these invoice documents.
24 I'm jumping around slightly as to when you were asked
25 these questions, but since we are here let me ask you

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1 about them now. These invoices -- you were asked about
2 putting Mr Ferguson onto the SEP system this morning, do
3 you remember?
4 A. Yes.
5 Q. And you were taken to E6. Would you pull out E6,
6 page 1480, described as "The SEP invoice process." Do
7 you see that? Mr Potts took you to page 1480.
8 A. Yes.
9 Q. He was asking you about how you came to put in the word
10 "technician".
11 I'm looking at a example of your invoice here,
12 1759-1, in the block marked "Services for", you have put
13 in the word "technician". Do you see that?
14 A. Yes.
15 Q. Next to that it says "Registration number, GOC
16 et cetera", and you have put in the words "not
17 applicable"?
18 A. Yes.
19 Q. Then you have sent this off to Specsavers and they have
20 paid it.
21 A. Yes.
22 Q. I just want to ask you about -- you were taken to 1480
23 in this process, I think you said at the time Mr Vos
24 that you weren't shown a copy of this document 1480 at
25 the time, so this appears to be Specsavers process

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1 document?
2 A. Yes.
3 Q. But just looking at this, I want to check with you this,
4 on page 1481 that you were taken to, there are some
5 notes on the right-hand side, do you see that, in a box?
6 A. Yes.
7 Q. And they have arrows to each of the little entries. If
8 you go down to the fifth item down, "Services for", and
9 "Registration number"; do you see that?
10 A. Yes.
11 Q. This is what Mr Potts was asking about: how did you come
12 to put him in as a technician? It says:
13 "These must be filled in with whatever work the SEP
14 does: OPHT, DISP, TECH or AUDI."
15 Do you see that?
16 A. Yes.
17 Q. Then the registration number we see would be a number?
18 A. Yes.
19 Q. In relation to the other staff that you put through
20 the SEP system, did you fill in these items?
21 A. The only staff that a registration number would be
22 applicable to would be optometrists registered with
23 a GOC, or dispensing opticians registered with a GOC.
24 So it would be their General Optical Council
25 registration number. So that would only apply to

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1 self-employed optometrists, but certainly technicians or
2 optical assistants or audiologists, for example, which
3 is what AUDI stands for I assume, wouldn't have
4 registration numbers.
5 I can't be 100 per cent sure about an audiologist,
6 I don't know what organisation they might belong to and
7 whether they have a registration number.
8 Q. Okay. Up at the top in the note it says:
9 "We only process invoices for optometrists,
10 dispensers, lab technicians and audiologists."
11 A. Yes.
12 Q. Did you have a conversation with somebody about lab
13 technicians, ie the definition lab technicians? This is
14 what Mr Potts was suggesting; that you had put him down
15 as a technician, which implicitly means a lab
16 technician.
17 A. I had a conversation with the person up in Specsavers'
18 accounts department, who told me to put him down as
19 a technician.
20 Q. If you go to page 1515, we are still in the same
21 document, page 36 internally of the document. There are
22 some notes on the SEP compliance.
23 A. Yes.
24 Q. Do you see that?
25 A. Yes.

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1 Q. It says:
2 "See the below grid as to what action needs to be
3 taken with which compliance issues."
4 Do you see that?
5 A. Yes.
6 Q. The second item down says:
7 "Missing professional reg number. Must send back.
8 When setting up an SEP, add the reg number to
9 the company reg number box."
10 A. I'm sorry, you are saying the second item down:
11 "ophthalmic technician ... not specified."
12 Q. That is the third item down, isn't it?
13 A. Sorry yes.
14 Q. Second item down, "Missing professional reg number". On
15 your document, looking at 1759-1, under "Registration
16 number", which is that box that is being referred to --
17 A. Yes.
18 Q. "Professional reg number", do you see that?
19 A. That would only be for an optometrist or a dispensing
20 optician.
21 Q. Okay, so you put the words "not applicable" there?
22 A. He was not a dispensing optician or an optometrist.
23 Q. Then the next item down, do you see that?
24 A. Yes.
25 Q. In the note a new phrase it says:

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1 "Only needed for set ups. Call store, don't send
2 back if the services provided list anything other than
3 OPHT, AUDI, DIS or a LAB TECH."
4 Do you see that; LAB TECH?
5 A. Yes.
6 Q. Did you get any call back when you put the word
7 "technician" in?
8 A. No. I was actually told to put the word "technician"
9 in.
10 Q. Moving on then from Mr Ferguson's invoices and that.
11 You were asked about your work and it was suggested to
12 you that you put in your list of things that you did
13 a lot of management meetings. But you were then taken
14 to E2, page 455 through to page 514.
15 These are management meeting --
16 A. Can I close this file?
17 Q. Yes, you can close the rest of those files.
18 A. Sorry E2 number?
19 Q. E2. You were taken to the management meetings which
20 appear at pages 455 through to 514. It was put to you
21 by Mr Potts that -- on the basis that these management
22 meetings notes or minutes, whatever they are, are much
23 more infrequent than weekly?
24 A. Yes.
25 Q. It was put to you that therefore, when you describe in
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1 your list of work that you do that you attend management
2 meetings, weekly or near weekly I think you told his
3 Lordship --
4 A. Yes.
5 Q. -- that that was obviously false. So I need to ask you
6 about these management meeting minutes. First of all
7 who created these documents?
8 A. These were -- Sarah Scott used to sit in on management
9 meetings and she was given the job of secretary to
10 produce the minutes for the meeting.
11 Q. Okay. It was suggested to you that these -- the dates
12 on these meetings show you every time there was
13 a meeting. Can you just go to page 473 by way of
14 an example.
15 A. Yes.
16 Q. Let's go back just one to get the context. Page 471, on
17 26th May 2009 there was a management meeting, do you see
18 that?
19 A. 471?
20 Q. 471. 26th May 2009 management meeting?
21 A. Yes.
22 Q. Then at the bottom of page 472 it says, item 12:
23 "Next meeting, Tuesday 2nd June."
24 Do you see that?
25 A. Yes.

1 Q. Then 473 is the meeting of 2nd June?
2 A. Yes.
3 Q. Go to 474.
4 A. Yes.
5 Q. It appears that the next meeting wasn't going to be on
6 9th June, which would have been one week later. At the
7 bottom of page 474 it says, "Next meeting, Tuesday
8 16th June".
9 A. Yes.
10 Q. The next minute we have, according to Mr Potts'
11 questioning, is page 475. Not until 28th July. That's
12 almost two months later.
13 A. Yes.
14 Q. I think what he was putting to you was that there
15 weren't any meetings other than the ones shown in these
16 notes?
17 A. Yes.
18 Q. What is the position?
19 A. Sorry?
20 Q. What is the position; were there any meetings beyond
21 the ones shown in these notes?
22 A. You know, I was quite surprised when I saw the huge gap
23 in some of these. I think that we actually disclosed
24 these documents from hard copies that we had, but I'm
25 sure that there were a lot more meetings than are
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1 disclosed here.
2 Q. Did you retain a hard copy of the notes of every
3 meeting?
4 A. I took -- yes, I think we took a hard copy of the notes
5 of every meeting, but certainly the originals were filed
6 in the store on Sarah Scott's memory stick, which
7 Specsavers said wasn't necessary to disclose. But her
8 memory stick contained the minutes of every single
9 meeting that we had.
10 Q. Do you want to look at one further pair of these
11 minutes? 486.
12 A. Yes.
13 Q. Either side of it, 485 and 487. 487 is the meeting of
14 11th May, 2010?
15 A. Yes.
16 Q. It says:
17 "Matters arising from the last meeting."
18 Do you see that?
19 A. Yes.
20 Q. If we go back to page 486, which is said to be
21 the previous meeting, 6th April 2010. So this would be
22 again over a month beforehand. This one is actually
23 called Hearcare meeting. Can you explain whether
24 there's any difference between a management meeting and
25 a Hearcare meeting?

1 A. We used to have a regular Hearcare meeting with
 2 Mr Bill Vance(?), who was the director of the Havant
 3 Hearcare store, because we had one of his Hearcare
 4 people in once a week to do hearing tests. So these
 5 meetings would have been fairly regular as well. But
 6 certainly the management meeting of 11/05 wouldn't refer
 7 to the meeting on 06/04. We may have mentioned, but
 8 I would have thought we would have mentioned it in
 9 meetings between that. As you see there's nothing said
 10 about the Hearcare in that one.
 11 Q. If you go to 487, which is the one I took you to,
 12 11th May 2010. If you just scan down there and see what
 13 the items are. It is quite short. You have got a staff
 14 item 2 that says various things.
 15 A. Yes.
 16 Q. Do you see that?
 17 A. Mmm hmm.
 18 Q. Then the only other one that has any entries in it is
 19 "(5) Optometrists conversion rates".
 20 A. Yes.
 21 Q. "(7) The financial debtor" item.
 22 A. Mmm hmm.
 23 Q. (8) is the "AOB," you introduce new guidelines for
 24 meetings with staff for all to discuss?
 25 A. Yes.

1 21

1 Q. The next management meeting note that we have is 488,
 2 which is 22nd June. So that is about seven weeks later.
 3 A. Yes.
 4 Q. The only item -- the only new item that's actioned, so
 5 matters arising from the last meeting, do you see that?
 6 A. Yes.
 7 Q. It says:
 8 "Action: RR time allocation for contact lens work
 9 has been controlled to before 10 am."
 10 Do you see that?
 11 A. Yes.
 12 Q. If you go back to page 487, if this were the last
 13 meeting, is that item referred to anywhere?
 14 A. No, I can't see it on there.
 15 Q. All right.
 16 A. I don't see it on there.
 17 Q. No.
 18 A. I mean, outstanding from the last meeting was also six
 19 lab jobs per week.
 20 Q. That is an item which -- Mr Potts pointed to the fact
 21 that a lot of these items appear on almost every
 22 management meeting; the same item seems to appear
 23 repeatedly. If you go back to page 483, 16th March:
 24 "GV and SS to audit six jobs per week. 17 item
 25 checklist."

1 22

1 A. 16th March?
 2 Q. Every single one of them Mr Vos.
 3 A. Well, the NHS audit we would have done every week. It
 4 would have been mentioned at least every week.
 5 Q. Yes. Is that the NHS audit? Is that the six jobs per
 6 week, 17 item checklist?
 7 A. No, that is a lab audit, because suddenly we had to
 8 start doing a lab audit. So that is a completely
 9 different audit.
 10 MR POTTS: My Lord, I hesitate to interrupt but the relevant
 11 page is 485, which is the meeting before this one. If
 12 you are looking for the cross references between matters
 13 which were actioned and the ones which were outstanding
 14 from that meeting.
 15 MR STUART: So you are saying in 485 there is an item which
 16 says:
 17 "RR to work. Contact lens work controlled before
 18 10 am".
 19 That's the item --
 20 MR POTTS: I can -- if it would be helpful my Lord. For
 21 example, 487, the H&S course in July outstanding on 485
 22 is the H&S course which is there.
 23 MR STUART: My Lord, I took the witness to 488 and the only
 24 item actioned is number 1:
 25 "Action: RR time allocation for contact lens work

1 23

1 has been controlled to before 10 am."
 2 You can see the note of it on the transcript. That
 3 is the item. I asked the witness to look back at the
 4 previous meeting to see whether that item -- and
 5 the previous meeting according to these notes is at
 6 page 487 and the witness confirmed that that item, that
 7 is RR time allocation for contact lens work being
 8 controlled to before 10 am, is not on page 487 as
 9 something to do. My learned friend says we must look at
 10 page 485.
 11 MR POTTS: Firstly, item 6 on 487 deals with lenses and
 12 contact lenses but in relation to the, for example --
 13 MR STUART: There is no reference there, page 487. What
 14 does it say under "Lenses and contact lenses"?
 15 MR JUSTICE HILDYARD: You mustn't argue amongst yourselves.
 16 The question has been raised whether 485 provides
 17 the clue to what is stated as having been actioned at
 18 488.
 19 MR STUART: Yes. That is what Mr Potts has said. And I'm
 20 asking him to point me to the line in 485 --
 21 MR POTTS: 487 my Lord is the point. Sorry. The point
 22 I was making was that the points actioned -- allegedly
 23 actioned on 11th May refer back to the matters which
 24 were outstanding as at 30th March. For example, you
 25 have:

1 24

1 "Action: children's dispense/collection process".
 2 You see that in "AOB":
 3 "Optom to review all children's dispenses and
 4 authorise."
 5 MR STUART: My Lord, that is not what I was asking
 6 the witness and Mr Potts well knows it. And one can see
 7 from the transcript. I was asking about page 488, the
 8 item "RR time allocation."
 9 I think the answer is Mr Potts doesn't have
 10 a reference on page 485 to that item. Do you want to
 11 have a look Mr Vos, page 485 you are being asked to look
 12 at. Is there anything on that?
 13 A. I can see where it says:
 14 "Outstanding: SS to attend NCIE(?) and H&S course in
 15 April. To call Joe Booker for dates."
 16 And on 487 --
 17 Q. No we are asking you about 488 Mr Vos.
 18 A. Okay.
 19 Q. Look at page 488.
 20 A. Okay. "RR time allocation".
 21 Q. This is under, "Matters arising from the last meeting".
 22 The only thing that was actioned from the last meeting
 23 was:
 24 "RR time allocation for contact lens work has been
 25 controlled for before 10 am."

125

1 Who is RR?
 2 A. Romi Rhoder.
 3 Q. And:
 4 "Time allocation for contact lens work to be
 5 controlled before 10 am."
 6 What does that mean?
 7 A. Well, she was allocated to go and work up in the contact
 8 lens area. I think it was because one of the other
 9 girls had left, who used to be in the contact lens area,
 10 so we decided to put her up in the contact lens area to
 11 learn, but that this would be allocated only to be
 12 before 10 am for training to work with Sam Butler, but
 13 after that she was downstairs.
 14 Q. Do you know what the date of the meeting was when that
 15 was agreed?
 16 A. No, because there's no minute here for it.
 17 Q. Okay, that's fine. Moving on to a different point now.
 18 I think my last point.
 19 It was suggested to you that these documents that
 20 are dated 2009 -- stay in E2 -- these documents dated --
 21 page 527 --
 22 A. Yes.
 23 Q. -- and then 529. That letter and then 530, your
 24 contract of employment.
 25 A. Yes.

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1 Q. I think it was suggested that 539, which is your job
 2 description, that those were all concocted in 2011,
 3 shortly before you had to go along to an investigation
 4 meeting about whether you were doing any work for
 5 the store commensurate with the amount of money you were
 6 being paid.
 7 What I wanted to ask you, just to get clear about,
 8 because it wasn't clear when I read the transcript, this
 9 document at 530.
 10 A. 530?
 11 Q. Yes 530.
 12 A. Yes.
 13 Q. You mentioned it when you were cross-examined.
 14 Something about the logo, I think. Do you see at the
 15 bottom of 530?
 16 A. Yes.
 17 Q. Then 531-538?
 18 A. Yes.
 19 Q. It appears to be some sort of template document which at
 20 the top says:
 21 "Specsavers Opticians, terms and conditions of
 22 employment. Permanent or continuous employment, V1."
 23 That seems to appear on all the rest of the next
 24 seven pages. Do you see that?
 25 A. Yes.

127

1 Q. Then, 539 is what seems to be a slightly separate sheet,
 2 at least.
 3 A. Yes.
 4 Q. "Job description: Business Practice Manager.
 5 W Godfrey Vos."
 6 That has a logo as well. Do you see that?
 7 A. Yes.
 8 Q. What I just wanted -- can you make clear, how was this
 9 document or documents created?
 10 A. From a template, from templates.
 11 Q. Is it one document or two or three?
 12 A. It would be three documents.
 13 Q. So the front sheet, 530, is that one document or is that
 14 part of the --
 15 A. No, that's one document. That is a cover we used to put
 16 on.
 17 Q. That's from a template you are saying?
 18 A. Yes.
 19 Q. Provided to you by whom, or did you create it yourself?
 20 A. I think that template came across from the Worthing
 21 store.
 22 Q. From the Worthing store?
 23 A. Yes, I think I took it across from the Worthing store.
 24 Q. What about the -- in the bottom right-hand corner you
 25 referred in cross-examination to the logo.

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1 A. Yes.
 2 Q. Just so his Lordship is clear, is that logo in
 3 the bottom right-hand corner, is that on the electronic
 4 document or is that on the piece of paper that you copy
 5 the electronic --
 6 A. No, that's on the electronic document.
 7 Q. That is actually part of the electronic document?
 8 A. Yes.
 9 Q. Okay. Then 531 to 538 --
 10 A. Yes.
 11 Q. -- is obviously one document?
 12 A. Mmm hmm.
 13 Q. Where is that from?
 14 A. That's a template provided by Specsavers, originally on
 15 floppy disks, a long, long time ago.
 16 Q. Okay. Then 539.
 17 A. Yes.
 18 Q. The job description document. Where is that from?
 19 A. That is also a template but we adjusted the template and
 20 basically the bottom part of it, the middle part where
 21 it says, "Job title and responsibility", we would have
 22 detailed that ourselves but the rest of it would have
 23 been part of a template.
 24 Q. When you said in cross-examination that this document
 25 was created in 2009, when -- these documents I should

1 29

1 say were created in 2009 --
 2 A. Yes.
 3 Q. -- does that include document 539, which is not actually
 4 dated as far as I can see?
 5 A. Yes, that is part of the actual employment contract.
 6 That is a page attached to the employment contract. It
 7 is clipped to it.
 8 Q. I see. Okay.
 9 A. So items 530 to 539 would have been the employment
 10 contract and that would have been a document on its own,
 11 "Employee copy". And Specsavers, in the box, would have
 12 "Employer copy".
 13 Q. Okay. Apart from keeping -- you said the copy of this
 14 contract was kept in the file?
 15 A. Yes.
 16 Q. So that is with the shop?
 17 A. Mmm hmm.
 18 Q. Was a copy of it provided to Specsavers at all? I'm not
 19 talking about in 2011 I'm talking about earlier than
 20 2011?
 21 A. No.
 22 Q. At page 541, just two pages later, where we see
 23 a document generated in 2009, this was generated, we
 24 heard from your wife, at the time of Mr Jason North's
 25 investigation into Jena Laker's grievance complaint?

1 30

1 A. Yes, that is right.
 2 Q. And this document was generated and put on the notice
 3 board or something she said.
 4 Do you remember your wife's evidence as to that?
 5 A. Yes.
 6 Q. Did you have any input in creating this document in
 7 2009?
 8 A. The original template for the document would have
 9 been -- I would have provided, but that would have been
 10 completed by probably Mr Goodley.
 11 Q. Mr ?
 12 A. Mr Goodley. At the bottom. He was involved in
 13 the administration.
 14 Q. Sorry, are we on -- page 541?
 15 A. Yes, at the bottom it says the consultants, who
 16 the people were involved in doing the above, and under
 17 administration it says "Peter Goodley."
 18 Q. Am I on the wrong page?
 19 A. 541-1, sorry, is that a different page?
 20 Q. 541.
 21 A. Sorry, yes.
 22 Q. Do you see that document?
 23 A. Yes.
 24 Q. This was a document generated in 2009 --
 25 A. Yes.

1 31

1 Q. -- in relation to Jena Laker's grievance, and
 2 Mr North -- Jason North from Specsavers group -- made
 3 a recommendation that your role -- all the directors and
 4 your role needed to be clarified to the staff --
 5 A. That is right.
 6 Q. -- because Jena Laker -- one of her complaints was that
 7 she felt you were doing things to her or saying things
 8 about her and she didn't know what your role was?
 9 A. Yes.
 10 Q. Do you recall that part of the grievance?
 11 A. Yes.
 12 Q. Were you interviewed at all by Mr North --
 13 A. I was, yes.
 14 Q. -- in relation to that?
 15 A. Yes.
 16 Q. Did he ask you about your role?
 17 A. Yes, he did.
 18 Q. Did you explain your role by reference to your job
 19 description or your contract of employment or to any
 20 other document?
 21 A. He asked me if I was employed by Specsavers now and
 22 I said yes, I was.
 23 Q. Now this document, 541, I will ask you again, who
 24 generated this document?
 25 A. I generated the document.

1 32

1 Q. Okay.
 2 A. Sorry.
 3 Q. And the chunk which describes you, Godfrey Vos, the big
 4 chunk in the middle of the page, from where did you
 5 obtain those words to describe your role?
 6 A. I mean, they are my words but Dr Poulson, Mr Weller and
 7 I sat down together to produce this document because
 8 obviously there had been the accusation that the staff
 9 didn't know who was responsible for what, including
 10 Dr Poulson and Mr Weller. So -- and Sarah Scott for
 11 that matter, so we sat down and went through it and
 12 drafted it between us. Obviously we sat down and said
 13 who is responsible for what et cetera.
 14 Q. Yes. Can you just look about two-thirds of the way
 15 through your chunk.
 16 A. Yes.
 17 Q. It says:
 18 "All requests for holidays and days off and all
 19 matters relating to your employment [this is obviously
 20 addressed to the staff now] must be made through him and
 21 sickness must be reported to him. His direct line
 22 is~..."
 23 Then there is a telephone number.
 24 A. Mmm hmm.
 25 Q. Is that a work number or a home telephone number?

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1 A. That is a business telephone number at home. Our home
 2 telephone number is different.
 3 Q. But where is that telephone?
 4 A. That telephone is in my home office.
 5 Q. And:
 6 "He can be contacted on this number which, when
 7 necessary is diverted to his mobile phone, at any time,
 8 even if he is not present in the store ..."
 9 A. That is right.
 10 Q. "... he must be telephoned as early as possible in
 11 the morning to report sickness ..."
 12 Did the staff call you?
 13 A. Did they?
 14 Q. Did they call you to report in when they were sick?
 15 A. Yes, quite often. I mean, I used to have someone like
 16 Glen Morris phoning me up at 10 o'clock or 11 o'clock at
 17 night to tell me that he was ill and he would not be in
 18 the next day, or that one of his children had diarrhoea,
 19 or there was something wrong with them, and he used to
 20 go into great detail to tell me all about that.
 21 Q. But if a staff member was sick for the next morning, so
 22 they were reporting, "I won't be in the next morning".
 23 A. That is right.
 24 Q. Whose job was it then to find a replacement member of
 25 staff?

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1 A. It was my job to re-allocate staff to be able to cover
 2 that person's job. If it was an optical assistant, for
 3 example, one of the things we used to do was on
 4 the rotas we used to very carefully allocate optical
 5 assistants to the various optometrists we had, because,
 6 for example, there were some optical assistants who
 7 didn't work very well with some optometrists. They
 8 didn't get on well with each other.
 9 So it was a bit of a scientific thing to get
 10 the right optical assistant with right optometrists so
 11 we used to do this a number of weeks in advance. But if
 12 somebody was ill and that optical assistant was allocate
 13 to do a specific optometrist, we would have to find
 14 a replacement or reallocate somebody. Normally we had
 15 two optical assistants allocated to each optometrists.
 16 So Dr Poulson for example, after Mr Weller's
 17 problems, always had Mr Weller allocated to her because
 18 the two of them worked very well. Then probably someone
 19 like Claire Stewart would be allocated to them because
 20 Mr Weller and Claire Stewart worked very well together.
 21 And Mr Yogaratham would have another two. If for
 22 example Mrs Stewart was off sick, unfortunately
 23 Mr Weller would have to work on his own with Dr Poulson
 24 unless there was somebody else available.
 25 MR JUSTICE HILDYARD: What did Mrs Stewart do?

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1 A. Mrs Stewart was an optical assistant. She would see
 2 the customers and she would sell glasses to them. So
 3 once Dr Poulson has tested somebody, Mr Weller and
 4 Mrs Stewart used to sit up in the office next door to
 5 her testing room and she would bring the person out and
 6 Mr Weller would take that person down and show them
 7 the glasses and dispense the glasses to them.
 8 Whilst he was doing that of course another person
 9 would come out and that person would go to Mrs Stewart
 10 and she would go down and do the same job, by which time
 11 Mr Weller would be back upstairs again, having dealt
 12 with the first customer, to pick up Dr Poulson's third
 13 customer. That is the way it worked. If Mrs Stewart
 14 was off sick then poor Mr Weller would have to work
 15 twice the speed to cover it unless there was somebody
 16 else in the store. But generally we had someone else,
 17 a floating person; the person would float to fill up
 18 the gaps.
 19 MR STUART: Just whilst we are on this document, 541. It
 20 was suggested to you by Mr Potts, by reference to the
 21 management meetings that GV, in the actions list,
 22 appeared very rarely.
 23 A. Yes.
 24 Q. Do you remember Mr Potts asking you about that? By
 25 comparison Mr Weller appeared often.

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1 A. Yes.
 2 Q. SS for Mrs Scott would appear often.
 3 A. Yes.
 4 Q. By reference to this document 541, how do the items
 5 covered in the weekly management meeting -- where do
 6 they fall within your remit here?
 7 A. Well, the management meetings are basically to review
 8 what had happened the previous week, so the sort of
 9 things we would go through is what the conversion rates
 10 were, what the sales were, and then we would look at
 11 things that needed to be specifically dealt with for
 12 the following week and allocate them on that basis.
 13 Now, I was the Chairman of all these management
 14 meetings. So it normally came down to me doing
 15 the allocation of who had to do what. And if you look
 16 at who had to do what, you will find that they were not
 17 major jobs, for example, when we were talking about
 18 Mr Weller having to train somebody, that person would
 19 have had to shadow him because what he was absolutely
 20 excellent at was his knowledge and dispensing skills --
 21 sales skills. So where possible we used to latch
 22 somebody who was new onto him to learn the tricks of the
 23 trade.
 24 Q. Finally then on this, Sarah Scott. You have written her
 25 management structure description as well, have you,

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1 here?
 2 A. Yes.
 3 Q. Or did she write that herself?
 4 A. No, we wrote it.
 5 Q. It says she is the retail practice manager, she is
 6 responsible to the senior director, that is your wife,
 7 the retail director, that is Mr Weller, and the business
 8 practice manager, that's you?
 9 A. Yes.
 10 Q. She assists the retail director in his duties. She
 11 assists the business director, that's you, with staff
 12 and other matters, including employment, assessments,
 13 disciplinarys, training, liaising with the contact lens
 14 manager, the NHS, the VDU contracts, health and safety.
 15 Are those all parts of her role for which you are
 16 responsible or is that for Mr Weller as retail director?
 17 A. Well, she was responsible to me most of the time.
 18 Q. So staff employment, is that a matter for you or
 19 Mr Weller?
 20 A. For me.
 21 Q. Assessments?
 22 A. That was for me.
 23 Q. Would Mr Weller be involved in assessing his own staff?
 24 A. No.
 25 Q. Disciplinarys?

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1 A. No, that was for me.
 2 Q. Did you get Mr Weller involved in any disciplinarys?
 3 A. No.
 4 Q. Training?
 5 A. At that time he wasn't able to take the stress of being
 6 involved in disciplining other people.
 7 Q. What about training?
 8 A. Training he did get involved in.
 9 Q. He did do training?
 10 A. Yes.
 11 Q. Liaising with the contact lens manager. That's
 12 Sam Butler, isn't it?
 13 A. That is right.
 14 Q. Was that for him or for you?
 15 A. That was for me.
 16 Q. Controls with the NHS contracts and the VDU contracts?
 17 A. That was for me.
 18 Q. Health and safety?
 19 A. Sarah Scott did it, but I reviewed it all.
 20 Q. Okay.
 21 One thing, F1, a totally different point now, very
 22 short. F1, page 158. We are onto the issue why --
 23 Mr Potts put to you several times why certain documents
 24 were not available in native format. Do you remember?
 25 A. Yes. What page are we on?

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1 Q. 158.
 2 A. Yes.
 3 Q. I want to be clear. Under item 7, we are in the middle
 4 of a letter, page -- it starts at page 153.
 5 A. Yes.
 6 Q. If you go to page 155, for example. Just above
 7 the second hole punch, there is a paragraph starting:
 8 "Regarding documents ..."
 9 Do you see that?
 10 A. We are on 155, are we?
 11 Q. Above the second hole punch:
 12 "Regarding documents and other files. Mr Vos'
 13 computer had a hard drive failure in 2010 and many files
 14 and e-mails which had not been backed up were lost as
 15 the data on the hard drive was corrupted and not
 16 recoverable."
 17 Do you see that?
 18 A. Yes.
 19 Q. Then at 158 at item 7 in relation to various items
 20 including document 157, the notes of the meeting of
 21 6th March. That was generated in 2009:
 22 "... has since been routinely deleted from the
 23 claimants' systems or was one of the irrecoverable
 24 documents as a result of the 2010 computer failure."
 25 A. Yes.

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1 Q. Can you explain to the court what happened in 2010?
 2 A. My hard drive on my main computer packed up and I had
 3 a subsidiary drive, which I hope would back it all up --
 4 it was supposed to back it all up, but when it failed my
 5 IT expert told me that he couldn't recover any data from
 6 the failed drive.
 7 Q. Was your computer expert or you able to at least
 8 identify what documents you had lost?
 9 A. The thing is that any documents that I wanted to keep,
 10 that I felt were important, I would save on a memory
 11 stick or a CD-Rom. So there was no document I was
 12 worried about that had gone and obviously never having
 13 been involved in any High Court actions before,
 14 the thought of any documents in native format -- it
 15 didn't occur to me that I would have to consider that
 16 for the rest of my life I might be involved in a High
 17 Court action, my Lord and keep documents because I might
 18 have to provide them in native format.
 19 I wasn't in the practice of keeping documents
 20 indefinitely, I used to delete them routinely after
 21 a number of months, sometimes delete them straight after
 22 they had been produced. Once the hard copy had been
 23 produced or emailed to somebody I would delete
 24 the document.
 25 Q. So in relation to the key documents that Mr Potts asked

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1 you about, if you remember, the document 142, 144,
 2 the documents from 2009 that he says were generated in
 3 2011, how were you able to say what happened to those
 4 documents; the explanations given about whether they
 5 were overwritten or lost or copied or whatever. How
 6 were you able to say -- explain to the court how you
 7 were able to identify precisely what happened to certain
 8 documents that were dated --
 9 A. Well, I can't say precisely. I mean I know --
 10 the employment contract, for example, I know that that
 11 document is a template, so that was overwritten many
 12 times by new staff coming on or whatever it is. So
 13 the original document probably was created in 2003 or
 14 2004. By which time my document my document went on it,
 15 it had probably dealt with hundreds of staff that had
 16 used the same template. Then after me more people would
 17 have used it. Now that document was saved on a memory
 18 stick. So we are able to recover any employment
 19 documentation from the memory stick so any documents
 20 that had been stored on my computer that related to
 21 employment, we had a copy of them.
 22 So we had a copy of the engagement letters, the job
 23 descriptions, the employment contracts -- they were all
 24 kept on the back of memory stick which was in
 25 the office. On my computer I would only keep the latest

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1 document created. Which is -- what we disclosed was
 2 the latest documents that were created on my computer.
 3 Q. What about the correspondence? Are they template
 4 documents or are they not template documents in your
 5 categorisation there?
 6 A. Which correspondence are you talking about? If we are
 7 talking about the letters of engagement, which is
 8 correspondence --
 9 Q. Take page 529 as an example, 14th May 2009, letter to
 10 you. You were asked about it by Mr Potts.
 11 A. In which file?
 12 Q. E2, 529. "Dear Godfrey." Then at the bottom it says:
 13 "Yours sincerely, Bognor Regis Visionplus Limited
 14 trading as Specsavers Opticians."
 15 A. Yes.
 16 Q. So that is a piece of correspondence in 2011?
 17 A. That is a template document. That comes from
 18 a template. So everything on there from the second
 19 paragraph downwards would be the basis -- from the basis
 20 of a template. So this letter, enclosures et cetera,
 21 that would be template. "Your duties" normally it would
 22 say "Your duties", not "Part of your duties", right?
 23 Q. That's fine. So your answer is that's a template
 24 document?
 25 A. Yes.

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1 Q. Page 541, the document I was just taking you to, which
 2 is document 142 we see in pencil above.
 3 A. Yes.
 4 Q. Is that a template document, or not?
 5 A. No.
 6 Q. That is not a template document?
 7 A. No.
 8 Q. And page 552, which was the letter Mr Potts asked you
 9 about so much this morning?
 10 A. Yes.
 11 Q. And you were taken to your solicitors -- is that
 12 a template document or not?
 13 A. No.
 14 Q. So just -- you were in F1 -- I was just in F1 with you.
 15 A. Right.
 16 Q. You have explained your page 158. So finally you were
 17 taken to page 199 and your solicitors' explanation for
 18 the loss of documents, 142, which is that management
 19 structure document.
 20 A. 199?
 21 Q. Yes, page 199, item 7. Do you remember Mr Potts --
 22 A. Right, okay.
 23 Q. -- pointed out to you that you said that documents 142
 24 and 144 were templates and you have just told the court,
 25 I'm reading the transcript, 142 --

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1 A. Yes.
2 Q. I said:
3 "Question: Is that a template document?
4 "Answer: No".
5 That is page 541.
6 A. 541.
7 Q. Yes.
8 A. No, that was not a template.
9 Q. If you look in the top right hand corner of that, that
10 is document number 142, do you see it?
11 A. Yes.
12 Q. Then page 552 is document number 144, do you see that?
13 552, the letter to Mr Ferguson.
14 A. Yes, that wasn't a template either.
15 Q. So both of those documents, 142 and 144 were not
16 templates?
17 A. No.
18 Q. So you were taken by Mr Potts to the answer given by
19 your solicitors on page 199 in bundle F1:
20 "We were instructed that documents 142 and 144 were
21 prepared from templates."
22 A. Yes.
23 Q. So that is wrong, not only in relation to 144, which is
24 what Mr Potts was asking about, but also about 142; is
25 that right?

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1 A. Yes, absolutely.that's not right and it is the way it is
2 worded here, if you look at it, it says:
3 "We are instructed that documents 142 and 144 were
4 prepared from templates supplied by your clients which
5 were later overwritten when new employees commenced at
6 the company."
7 So there has been some error there in which
8 documents we were talking about, because we would have
9 been obviously talking about documents -- we would
10 probably be talking about document 140.
11 Q. This is what I was going to ask you. If you go to
12 pages 530 and 531.
13 A. Yes.
14 Q. And 539 and 540.
15 A. Yes.
16 Q. Do you see they have all got the number 142 written
17 above them?
18 A. Yes, so they have.
19 Q. But you have given us a description of those documents
20 just now, haven't you?
21 A. Sorry?
22 Q. You have just given us a description of what those
23 documents are.
24 A. Yes.
25 Q. Are they anything to do with the document at page 541?

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1 A. No. They have all got 142 on, you are quite right.
2 MR STUART: My Lord, I have no more questions. Does my Lord
3 have any questions for Mr Vos?
4 MR JUSTICE HILDYARD: I do have a question but I'm just
5 wondering how best to suggest it be dealt with. My
6 question is really this: I haven't a picture in my mind
7 as to the layout of the Bognor Regis store. I don't
8 know where the receptionists were, I don't know where
9 the eye tests were done or where the back office was.
10 Do you see what I mean? I have got no picture and
11 I would like a picture of that, because it may be
12 relevant to my consideration of who could tell whether X
13 was in or Y was out. Do you see what I mean?
14 A. Yes. I could give you a brief verbal description.
15 MR JUSTICE HILDYARD: Could you? And then perhaps it might
16 be put down on a plan if that could be signed and
17 verified and if there are any questions I will allow
18 them in due course. Would that be convenient?
19 MR STUART: Of course.
20 A. I think amongst the exhibits my Lord is a plan that
21 I did for merchandising. If our solicitors can identify
22 that, they can give that to you because that gives
23 the plan of the whole ground floor with the testing
24 rooms and how the frames are laid out and where
25 the reception is related to the door.

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1 Basically if you look at the store, you walk a
2 double door with windows on either side and right in
3 front of you is the reception desk with a big sign over
4 it saying, "Reception", so the person sitting or
5 standing behind that reception can see everybody coming
6 in and out of the store.
7 Next to it, facing the other way is a podium, which
8 is for paying -- for the customer to come and pay. Next
9 to that are three dispensing desks. So the dispenser
10 would face away from the -- the first desk would face
11 away from the door, with the patient on the other side
12 of them and the second one it would be the other way
13 around, and the third one would be sideways on, so they
14 are looking across from each other.
15 Then there is a small corridor with chairs all
16 the way along the side where the patients sit, and then
17 there are two testing rooms and what we call
18 a pre-testing room. So none of these three are visible
19 from the front door or the front door can't be seeing
20 them.
21 In the pre-test room there is an auto refractor,
22 which -- the patients first of all go into this
23 pre-testing room to have various measurements done and
24 photographs taken of their eyes and then they go and sit
25 outside and wait for the optometrists to call them into

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1 their testing room.
 2 So that is the downstairs layout. Then there is
 3 a door from there going up the stairs up to the roof.
 4 Then you go up a set of stairs, which was half way down
 5 the store, it goes to an upstairs section where, if you
 6 turn right you go to the staffroom and the toilets and
 7 out onto the patio, and if you turn left there is
 8 the laboratory -- the optical lab. And opposite is
 9 another testing room and next to it is the office area
 10 and the middle bit, which is open plan, is the contact
 11 lens area, plus another dispensing desk. So that is
 12 what it looks like.
 13 But I can draw a plan up for you my Lord. If we can
 14 identify where the merchandising plan is, that will give
 15 you a clear idea of what the downstairs is like and
 16 I can do one for the upstairs as well.
 17 MR JUSTICE HILDYARD: Where would you usually be?
 18 A. I would be in the upstairs office.
 19 MR JUSTICE HILDYARD: Upstairs in the room to the left?
 20 A. Coming up the stairs, turn left. On the right-hand side
 21 would be a testing room and the office next to it,
 22 the office looking out --
 23 MR JUSTICE HILDYARD: On the left?
 24 A. Yes.
 25 MR JUSTICE HILDYARD: And who were the receptionists from

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1 time to time?
 2 A. Mostly it was a girl called Kathy Boltwood and she was
 3 a receptionist. I think she started about 9 o'clock and
 4 left at about 3 o'clock or 3.30 because she had
 5 children. The other one that used to fill in for her
 6 was someone called Charlotte Laurie. So those were two
 7 who mostly filled in on reception. Sometimes
 8 the contact lens manager had to go in and fill in at
 9 lunch times for them so they could have breaks and
 10 lunches. That would have been Sam Butler.
 11 Alternatively, if you look at the rotas which were
 12 in evidence you will see that I used to allocate
 13 somebody to fill in for the receptionist on a daily
 14 basis. So there would have been different people
 15 fulfilling in the role on a daily basis for a half hour
 16 lunch because lunch was half an hour and then two
 17 15 minute breaks during the course of the day.
 18 MR JUSTICE HILDYARD: Were all the staff new to you when you
 19 moved to Bognor or did you come with some staff?
 20 A. We took some staff with us. Mr Weller and Dr Poulson
 21 and some loyal staff from Worthing. So we took a number
 22 with us but most of the staff were in-situ when we got
 23 there.
 24 MR JUSTICE HILDYARD: Who were the staff who you took over
 25 from?

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1 A. We took somebody called Lisa Tinsley(?) over and we took
 2 Charlotte Laurie over. She was one of the ones we took
 3 over. I think there was another, but I don't know who
 4 that was, because that was six years ago. But we tried
 5 to bring on the staff that worked the Bognor store.
 6 Unfortunately Bognor is the sort of place -- I know
 7 Lisa Tinsley didn't stay long because it was a long
 8 journey for her to travel between Lancing, which was
 9 where she lived, and Bognor, whereas previously all she
 10 had to do was transfer from Lancing to Worthing.
 11 I think she stayed about 18 months and decided
 12 the travel was too much for her, so she left and went
 13 back to Worthing.
 14 MR JUSTICE HILDYARD: Yes.
 15 MR STUART: My Lord, just arising from those, just for
 16 the sake of the record as it were, if your Lordship has
 17 E6, 1395. Mr Vos referred to some schedules of who
 18 the staff were. 1395 and 1396.
 19 We have a list of the names and list of their
 20 departments. We can at least see, for example for
 21 Kathy Boltwood, it says receptionist. She is about
 22 two-thirds of the way down of 1395.
 23 Is this the reference you are referring to?
 24 A. Yes, these are the full-time staff. These are
 25 the employed staff at the time.

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1 Q. And Charlotte Laurie then, is that -- "locum", is that
 2 her?
 3 A. She is a locum yes. Charlotte Laurie, that is the one.
 4 So Charlotte Laurie and Kathy Boltwood were the ones who
 5 would have been on the reception most of the time.
 6 MR JUSTICE HILDYARD: Kathy Boltwood didn't come with you
 7 from --
 8 A. No, Kathy Boltwood used to work for a local optician and
 9 applied for the job with us when that optician went
 10 down.
 11 MR JUSTICE HILDYARD: Are there any other questions arising
 12 from any of mine?
 13 Well, it would help me, I think, though your oral
 14 description was extremely helpful, Mr Vos, just to have
 15 it recorded in some way so that I can get a picture,
 16 because sometimes, however clear the explanation is, it
 17 drifts out of mind. But I'm extremely grateful to you
 18 for your evidence --
 19 A. I think we have some photographs of the downstairs
 20 section, so I could give you the photographs and
 21 the plan.
 22 MR JUSTICE HILDYARD: I would like all that. That would be
 23 helpful, thank you.
 24 MR STUART: My Lord, can Mr Vos be released? I am sure he
 25 will be here for the rest of the trial.

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1 MR JUSTICE HILDYARD: Yes, unless there's any issue as to
2 the documents from which Mr Potts retreated.
3 MR STUART: Yes, there's that one last document which has
4 not been put into the bundles yet.
5 MR JUSTICE HILDYARD: I assume -- I know Mr Vos you have
6 been here on every hour of every day as it were, and it
7 may well be that you will continue. If something did
8 arise we might need to ask you further questions, but
9 otherwise subject to that, yes indeed you are released
10 and I'm grateful to you.
11 A. Thank you my Lord.
12 MR STUART: My Lord, I see the time might this be
13 an appropriate time to for the transcribers. We will
14 come back just before 3.20 pm.
15 (3.08 pm)
16 (A short break)
17 (3.19 pm)
18 MR STUART: So my Lord, I call my next witness, Mr Weller.
19 MR BARRY GEORGE WELLER (sworn)
20 Examination in chief by MR STUART
21 MR JUSTICE HILDYARD: Mr Weller, do sit down, there should
22 be some water for you. If you need a break you must
23 tell me.
24 A. Okay, thank you.
25 MR STUART: Mr Weller, if you could be handed bundle B. If

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1 you go to tab 6. Page 123 through to 146. We see
2 a signature, I hope.
3 A. Yes.
4 Q. Is that your signature?
5 A. Yes.
6 Q. Is that your witness statement?
7 A. Yes.
8 Q. And are the contents true?
9 A. Yes.
10 Q. Just hold on there, Mr Potts will have some questions
11 for you.
12 Cross-examination by MR POTTS
13 MR POTTS: Goods afternoon Mr Weller.
14 A. Good afternoon.
15 Q. If you look at your statement, at paragraph 4 you deal
16 with a little bit of your background.
17 Before buying your shares in Bognor, you were
18 a manager at the Worthing store?
19 A. Correct, yes.
20 Q. You were there for eight years?
21 A. Yes.
22 Q. From February 1997 I think?
23 A. Yes.
24 Q. You were there as retail manager?
25 A. Yes.

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1 Q. You, in fact, had been working for Specsavers between
2 1992 and 2005, with a short break for a year about
3 1996/1997?
4 A. No, it was about three months.
5 Q. Three months, not a year? Okay, a three-month break.
6 You initially joined from school as a technician?
7 A. That is right, yes.
8 Q. Then you were also chairman of the managers' forum for
9 the region?
10 A. That is right, when I moved to Worthing, yes.
11 Meridian West.
12 Q. Which region was it?
13 A. Meridian West.
14 Q. Is that the same region as this?
15 A. As Bognor, yes.
16 MR JUSTICE HILDYARD: Mr Weller, I'm so sorry, I sometimes
17 find it a little bit difficult to hear. Can you speak
18 up a little bit? I'm sorry about that.
19 A. Yes, sorry.
20 MR POTTS: You passed the Specsavers stage 1 course?
21 A. Yes.
22 Q. That is not a formality, is it, Mr Yogaratnam failed
23 that course, didn't he, initially?
24 A. Yes, but he did pass it originally -- way back before he
25 sat it again he was offered the Hove store, I believe,

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1 and he passed it way back and then failed it when he
2 went to do it because it went out of date. So he did it
3 again and then failed.
4 Q. That is a well developed programme for assessing joint
5 venture partners, whether they have got the right skills
6 for a particular role; retail or optical, correct?
7 A. So we are led to believe, yes.
8 Q. So you worked for Specsavers for well over 12 years
9 before entering into the role at Bognor, is that right?
10 A. Yes.
11 Q. So you weren't entering into a relationship with
12 Specsavers with your eyes closed exactly, were you?
13 A. Not at the time. Yes, you are correct. I didn't think
14 I was walking into it with my eyes closed at the time.
15 Q. Having worked for the group for a number of years, you
16 must have had a fair idea as to the ethos of the group?
17 A. I was Specsavers through and through to be honest.
18 I was Specsavers through and through; I believed in
19 everything they said.
20 Q. I think you said you thought it was a fantastic
21 organisation to work for?
22 A. Yes, I did.
23 Q. Mr Vos in his cross-examination sought to paint
24 a picture of the group as an organisation which was
25 intent on removing the directors of 25 per cent of its

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1 stores, and also an organisation with no interest as to
 2 whether its stores were making a profit, but just as to
 3 what it could -- whether it could profiteer from
 4 the companies and make an income for itself.
 5 Now you had worked for Specsavers for 18 years. If
 6 you thought it was that kind of organisation you would
 7 not have worked for them for so long, would you?
 8 A. But that is exactly it. You would not work for them if
 9 you knew what sort of organisation it was. You are
 10 given stories and told to believe stories that aren't
 11 necessarily true, but at the time you believe it.
 12 Q. It also would make no sense as a business model for
 13 Specsavers either, does it, because if it treats its
 14 JVPs to badly it wouldn't attract and retain the JVPs
 15 which are the heart of the business, would it?
 16 A. I couldn't answer that question, because I don't know
 17 how many people retained.
 18 Q. Could we move on. Could you have E1 please. Page 60.
 19 A. "Heads of agreement?"
 20 Q. Yes that's it. Now that was signed and dated 22nd May.
 21 So over two months before the shareholders' agreement
 22 was signed on 1st August, correct?
 23 A. Yes.
 24 Q. It provides -- I think initially there is some reference
 25 to 50/50, but it was a 60/40 split?

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1 A. Yes.
 2 Q. It sets out your role, the two purchasers; you and
 3 Dr Poulson. Not just her, correct?
 4 A. Correct.
 5 Q. In your statement you say that it was on the basis of
 6 support from Mr Vos that Specsavers were satisfied that
 7 you would be okay as a joint venture partner?
 8 A. Yes.
 9 Q. Now, like the other statements, your statement doesn't
 10 identify anybody at Specsavers who approved
 11 the candidacy on that basis. Your statement doesn't say
 12 that, does it?
 13 A. No.
 14 Q. We have said that Specsavers has a well developed
 15 programme to assess joint venture partners?
 16 A. Yes.
 17 Q. Mr Dyson's evidence is that the business transfer
 18 department has no records to support the contention that
 19 you didn't have sufficient skills?
 20 A. Right.
 21 Q. I put to you that, given your long service, your long
 22 managerial experience, your position as chairman of the
 23 regional managers' forum and the fact that you passed
 24 the stage 1 course, the reality is that you were
 25 accepted by Specsavers on your own merits as a joint

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1 venture partner?
 2 A. That's not what I was told at the time, no. I was told
 3 that when I went out to (inaudible) I was told that
 4 there was other people trying to do their stage 1 and
 5 I got fast-tracked into going up to do my stage 1, and
 6 at the time Helle, who is Dr Poulson, had been speaking
 7 to Mike Ryan in the transfer and business, and he said:
 8 if he is a manager at the moment, we will get him fast
 9 tracked up, which I was led to believe. And I did get
 10 fast tracked up, and I went up at sat the stage 1, and
 11 I was at a meeting at the time when Helle took the call
 12 to say I had passed my stage 1, but needed help with
 13 certain financial areas of the business that weren't
 14 that great. She said -- she had spoken to Mark Ryan and
 15 said we have got Godfrey on board, he is coming with us
 16 and he will be able to lead him and help him on his way.
 17 I got that call in the car park when I was actually at
 18 Eastleigh at a manager's meeting. I was just pleased
 19 that I had passed my stage 1, and I was fulfilling my
 20 life long ambition to become a director. I didn't care
 21 what help I needed, I just wanted to go forth.
 22 Q. Dr Poulson had been your boss at Worthing for a long
 23 time, hadn't she?
 24 A. Seven years, approximately.
 25 Q. You said you felt flattered that she had asked you to

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1 join her?
 2 A. Yes, I did indeed.
 3 Q. She obviously had more shares than you?
 4 A. That is right.
 5 Q. Did you continue to feel that she was senior to you in
 6 the hierarchy in the store on that basis?
 7 A. In what store?
 8 Q. In Bognor, when you moved to Bognor?
 9 A. No.
 10 Q. It didn't make any difference that she had been your
 11 boss for many years? It didn't influence you at all in
 12 your actions?
 13 A. No, I just thought I had that comfort blanket there,
 14 that she had been a director for many years and me being
 15 a new director, plus the fact that I was going into
 16 partnership with not just a normal optician, I got
 17 the opportunity to have a partnership with
 18 an ophthalmologist who is an eye doctor. And we had
 19 quite a nice personal business relationship. I couldn't
 20 think of anything more exciting at the time.
 21 Q. She guaranteed your bank loan, didn't she, at the time?
 22 A. No she didn't -- yes she did. Yes, sorry.
 23 Q. Yes she did. So did you feel obligated to her as
 24 a result of all of this?
 25 A. No, because we were all obligated to one another. It

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1 was not that I was obligated to her, she could have felt
 2 that she was obligated to me as well. Equal --
 3 Q. You were not guaranteeing any bank loan for her, were
 4 you?
 5 A. No, but obviously if she didn't trust in me then she
 6 wouldn't have signed and guaranteed the money, would
 7 she?
 8 Q. That wasn't quite the question I asked Mr Weller, I was
 9 asking you whether you felt obligated to her as a result
 10 of all that?
 11 A. The answer to that is no.
 12 Q. Now you refer to the turnover of the store increasing up
 13 to 1.5 million from around 1 million over a period of
 14 time, yes?
 15 A. Yes.
 16 Q. That was good news for Specsavers, wasn't it?
 17 A. It was fantastic news.
 18 Q. Because it received its financial return based on the
 19 management charge largely?
 20 A. Correct.
 21 Q. Now, at paragraph 32 of your witness statement, you
 22 say -- I'm dealing now with the BRM which took place on
 23 18th April 2008. Do you remember that?
 24 A. Yes.
 25 Q. You say that that was called regarding your use of

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1 Optimisation Healthcare Group for fast-track
 2 reimbursement of expenses?
 3 A. Yes.
 4 Q. That is not correct, is it? The meeting was called
 5 following an email from Mr Rowe who wanted to discuss
 6 the nature of the relationship with Optimisation and
 7 concerns over invoicing; isn't that right?
 8 A. As I said in my statement, my belief is that it was over
 9 Optimisation Healthcare fast-tracking reimbursements for
 10 expense for staff. When we sat down with Mr Rowe and
 11 everything he was saying; well, what's this here?
 12 Et cetera, and going through as we have already gone
 13 through with Mr Vos.
 14 Q. Could I take you please to E2, 330. Do you see that
 15 email of 29th February from Mr Rowe?
 16 A. Yes.
 17 Q. Now, that email talks about -- it says:
 18 "The purpose of the meeting is to discuss the nature
 19 of the relationship and concerns ref invoicing."
 20 Below there's also a reference to:
 21 "The benefits of the business operating in this way
 22 ... share our concerns ref tax benefits in kind."
 23 A. Yes.
 24 Q. Now it doesn't say anything in the email, does it, about
 25 expenses at all, does it?

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1 A. It says about -- concerns over invoicing the company.
 2 So that is -- to me the concerns are that obviously we
 3 are putting expenses through and then invoicing
 4 the company.
 5 Q. Well, in fact, Optimisation, by that stage, had put
 6 through invoices of about £59,000 up until that date.
 7 Mr Vos accepted in cross-examination that the bulk of
 8 the monies invoiced related to his personal services
 9 rather than anything else. So there's no reference to
 10 expenses or reimbursement of expenses in this email, is
 11 there?
 12 A. It is saying to discuss invoicing.
 13 Q. It doesn't say reimbursement of expenses.
 14 A. No, it doesn't. But that's what was in the invoicing.
 15 Q. Well, you were in court when I took Mr Vos through that,
 16 and indeed Dr Poulson. In fact, the vast bulk of the
 17 sums charged by Optimisation related to the services of
 18 Mr Vos.
 19 A. There was some, yes.
 20 Q. Well, in fact not some; the vast bulk of the sums
 21 invoiced were in relation to his services.
 22 A. There was some, yes.
 23 Q. If you look at the response at 331, was that discussed
 24 with you before it was sent? It was drafted by Mr Vos.
 25 A. Mmm hmm (Pause). Yes.

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1 Q. So you were aware that Optimisation was their company,
 2 weren't you?
 3 A. Yes.
 4 Q. Now was this email drafted by -- did you see it before
 5 it went?
 6 A. Yes, I did.
 7 Q. Now, you were aware it was their company, but it didn't
 8 refer to Dr Poulson's interest in the company or of that
 9 of Mr Vos, did it?
 10 A. No, because they already knew.
 11 I was aware as much as, shall we say SOG, was aware
 12 of that company being -- who it belonged to. I knew
 13 that from the outset, before I even took on and went to
 14 Bognor Regis, when she did her glaucoma clinics. And
 15 she took that company over. I knew about it back in the
 16 Worthing days when I worked at Worthing store as well.
 17 So I had no reason to doubt that Specsavers didn't know
 18 about it or know who was working for it and who was
 19 the directors of it. I was always aware and, as I told
 20 Mr Rowe in that meeting, that I knew that I was aware of
 21 it.
 22 Q. If they were aware of it, why didn't -- wasn't that said
 23 in the email: why are you asking this? You know all
 24 about this, it has all been cleared in advance. There's
 25 nothing about that.

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1 A. Well, they could have picked up the phone. Why didn't
 2 they pick up the phone and ask me if I was aware of it?
 3 Why write an email? Why ask a for a meeting when they
 4 could have just picked up phone and said: hello
 5 Mr Weller, it is Mike here, do you know about
 6 Optimisation? Did you know it is going on? What's your
 7 views on it? Why couldn't we have just done that?
 8 Q. Surely if they were asking for an explanation of this,
 9 the easiest and most straightforward answer would have
 10 been to respond and disclose the interest, and indeed if
 11 you believed that they knew all about it, to have said
 12 so?
 13 A. Exactly. So why didn't they phone me up?
 14 Q. No, Mr Weller. I do not think you are answering my
 15 question. The point I'm putting to you is that they are
 16 asking in an email for an explanation of this company
 17 and the response studiously avoids giving a reference to
 18 the fact that in fact it is owned by Dr Poulson and
 19 Mr Vos.
 20 A. Because I was aware that they knew already. The same as
 21 what I was aware. And if they had any -- I can't
 22 understand -- if they had any doubts -- although we sent
 23 this email back, we was on the assumption that they knew
 24 that Helle and Godfrey were directors in this company.
 25 When we took over the shares in the Bognor Regis

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1 practice, they do a search on you and see what companies
 2 you are involved with at the time as well.
 3 Q. Dealing with the services referred to here: arranging
 4 accommodation for locums, wasn't that something which
 5 could be done by staff in the store?
 6 A. Yes, it could be done by someone in staff in store but
 7 it was easier for Godfrey to do it, and obviously we
 8 didn't have to go through the BAC system. Or it could
 9 have been done by myself, but it would have been time
 10 off the shop floor. What we was doing was that with
 11 Godfrey doing all the back office stuff, taking
 12 the calls from Specsavers et cetera I was able to lead
 13 from the front, which Mary Perkins gave a fantastic
 14 speech about: leading from the front, show your
 15 strengths at the front of the shop, make the sales.
 16 That is what I did, I believed in the three of us; we
 17 did our strengths, we played our strengths, we played to
 18 our strengths in everything and we made the shop
 19 profitable and we had a good operating profit.
 20 I wouldn't for one moment ever put someone and pay
 21 them that amount of money if I wasn't going to get
 22 a benefit from it. I have a family and children at
 23 home, I need to be earning as much money as I can for --
 24 the reason being that I have got bank loans that I have
 25 taken out as my investment in Specsavers that I believed

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1 wholeheartedly in, as much as what I believed in Helle
 2 and Godfrey and us three working together.
 3 Q. Similarly checking the registration of optician staff
 4 with regulatory bodies was a 30 second job, wasn't it,
 5 of just running it through the website?
 6 A. I don't know, because I didn't do it.
 7 Q. You have never done that in all your years?
 8 A. I have now, but at the time I had Godfrey to do it.
 9 Q. Had you done it before at Worthing?
 10 A. No.
 11 Q. Then if you move on to 342, it is a further email sent
 12 in your name. Do you want to read that? From
 13 the middle of the page down. Would you like to read it
 14 first?
 15 A. Yes, do you mind? I'm sorry.
 16 Q. No of course.
 17 A. Sorry, I'm a slow reader. (Pause).
 18 Yes.
 19 Q. Now Dr Poulson accepted in cross-examination, firstly,
 20 that the email was not entirely accurate when it said
 21 there were no special relationships with suppliers.
 22 Secondly, that she hadn't disclosed her and Mr Vos'
 23 interest in the emails, and also the explanation given
 24 was misleading and inaccurate. You went along with that
 25 misleading and inaccurate description, didn't you, in

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1 this email?
 2 A. I didn't find it misleading or inaccurate at the time.
 3 Q. Well, there were special relationships, weren't there,
 4 in relation to suppliers of the store of Bognor, weren't
 5 there? Because Optimisation was owned by the two of
 6 them.
 7 A. It was owned by the two of them. However, it wasn't
 8 something that I thought was inaccurate because of --
 9 the fact is Helle told me on several occasions that she
 10 had explained to Specsavers who these people were, what
 11 the company was about. She even spoke to Doug Perkins
 12 who she acknowledged had the good (inaudible) and he
 13 knew that it was part of the business, that was declared
 14 to you as well earlier, when she took her statement.
 15 So to me it was clear.
 16 Q. This wasn't an email to Mr Doug Perkins, was it? It was
 17 to Mr Rowe, who was the person who actually had the
 18 day-to-day responsibility of dealing with the store,
 19 correct?
 20 A. Correct.
 21 Q. There was no disclosure in these emails of the fact that
 22 Dr Poulson and Mr Vos owned Optimisation, correct?
 23 A. However in Mike Rowe's witness statement he concurs that
 24 he knew it was owned by Dr Poulson and Mr Vos --
 25 Q. Can you answer my question please?

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1 In these emails there was no disclosure of the
 2 fact -- of the interests of Dr Poulson and Mr Vos in
 3 Optimisation, correct?
 4 A. Because he clearly knew already.
 5 Q. So the answer to my question is you say you accept that
 6 there wasn't a disclosure, but you say he knew already?
 7 A. Didn't need to be in there.
 8 Q. The reference is -- when it said:
 9 "There are no special relationships with any
 10 suppliers of goods or services to this company."
 11 You think that that wasn't misleading, despite what
 12 Dr Poulson accepted?
 13 A. To me, no, because I wasn't part -- it is not -- to me
 14 it is not misleading because what part do I have in that
 15 company?
 16 Q. You are being asked for an explanation of it. Indeed
 17 you are signing up to this description.
 18 A. Exactly, because it is nothing to do with me.
 19 Q. Well, it is to do with you.
 20 A. The company is nothing to do with me.
 21 Q. Mr Weller, this is to do with you because you are
 22 a partner of Bognor and you are being asked for
 23 an explanation. In fact, you stated here as giving this
 24 explanation as to what the position of Optimisation is?
 25 A. Yes sorry I'll re-phrase that. Optimisation was not my

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1 company is what I'm trying to say.
 2 Q. But the explanation is being given by you, or at least
 3 on your behalf in this letter.
 4 A. Yes.
 5 Q. I put it to you that the reference suggesting that:
 6 "There were no special relationships with any
 7 suppliers of goods and services of this company."
 8 ie Bognor. This is inaccurate.
 9 A. That's now how I read it.
 10 Q. Dr Poulson also accepted that it wasn't insulting for
 11 your joint venture partner to ask about this
 12 arrangement, contrary to what is said in this email. Do
 13 you agree with her on that?
 14 A. Sorry, what was the question again?
 15 Q. Dr Poulson accepted that it was not insulting for your
 16 joint venture partner to ask about this arrangement.
 17 A. You see, to me the joint venture partner was myself, and
 18 this is where I get confused because in our witness
 19 statement we said we are shared venture, joint venture,
 20 JVPs. All of this sort of thing has really confused me,
 21 I'm not going to lie, because the fact is that when
 22 I went for the investigation -- oh, our partner, meaning
 23 Specsavers, but yet when we are thrown out and used like
 24 a rag doll. Suddenly we are not as partner and it is
 25 not classed as a partner. That is just my view. I may

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1 be wrong, but that is my feeling on it. When you say
 2 "partner", I always cast Helle as my partner and not
 3 actually Specsavers. So that is how I view it.
 4 Q. Can I re-phrase the question to help you. She accepted
 5 that it was not insulting for your fellow shareholder,
 6 Specsavers, to ask about this arrangement.
 7 Do you agree?
 8 A. Yes, it is not insulting to ask about something but
 9 I disagree that it needed to go down the route of
 10 a meeting. What is wrong with communication? If we are
 11 partners or shareholders, what is wrong with picking up
 12 the telephone, as Mike Rowe could have done and said:
 13 hey Barry, nice to catch up with you, is it possible to
 14 catch up with you? I have got this question to ask you,
 15 what is your understanding on it?
 16 Q. This was an arrangement which you would have required
 17 your consent to under the terms of the shareholders'
 18 agreement, correct?
 19 A. Why would I do that?
 20 Q. Because the shareholders' agreement required their
 21 consent in relation to the employment of any consultant.
 22 A. Employment of any consultant?
 23 Q. The engagement of a consultant. Would it help if
 24 I showed you the shareholders' agreement?
 25 A. No it is fine. I have never read the shareholders'

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1 agreement because I have always believed in Specsavers.
 2 So what I have signed, I have signed.
 3 Q. Do you accept that that agreement provides that the
 4 engagement of a consultant requires their consent?
 5 A. No, I don't accept it, it is in the shareholders'
 6 agreement, I am sure it is in the shareholders'
 7 agreement. However I don't accept it because I believed
 8 that we are there, as it said, to run your business on
 9 a day to day. It is your business. It is your
 10 encounter. The thing is that Godfrey was already doing
 11 work in Worthing, so I just believed that I was getting
 12 a really good deal. I was getting the benefit of
 13 an experienced businessman with an ophthalmologist,
 14 I thought my world was made. So no, I didn't ever for
 15 one minute think I had to get permission from
 16 Specsavers, because I already thought that we had it.
 17 Q. The position in relation to Worthing was very different
 18 wasn't it? That refers to payments to Mr Vos, or his
 19 companies, of a nominal sum.
 20 A. I don't know, I didn't see those payments. I was not
 21 involved in that side of the business when I was at
 22 Worthing. However, that wasn't part of the manager's
 23 day-to-day job, that was something they sorted out as
 24 their directors. So I didn't know about that. However,
 25 when I come over to Worthing, from Worthing to Bognor,

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1 we would make it clear that we would be doing this all
2 together, and I was under the impression -- and still
3 believe that it was -- the most successful thing we did
4 was to actually involve Godfrey and to take him onto it.
5 Q. In the email at page 340 you refer to Mr Rowe. You say
6 that he has been less than candid and cagey?
7 A. Where is this, sorry, 340?
8 Q. Yes, the bottom of the page.
9 A. Yes.
10 Q. Now Mr Rowe already told you the purpose of the meeting,
11 hadn't he, in his email of 29th February?
12 A. Yes he had.
13 Q. Dr Poulson accepted that in light of the fact that
14 Mr Rowe had indicated in his email the reason for
15 the meeting, it was perhaps unfair to accuse him of
16 being cagey and being less than candid. Do you agree
17 with that?
18 A. No.
19 Q. So what do you think?
20 A. Like I keep saying to you, Mr Potts, I believe that if
21 he was cagey, if he was worried about if I knew about
22 how -- their involvement in the company, why could he
23 not just pick up the phone? Why could he not just ask
24 me? Why did we have to have a meeting to investigate
25 it? He could have come out or he could have said:

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1 actually, you know -- he could have seen me at a IDM
2 meeting or arranged, you know, to see me there.
3 Q. He was trying to come out and have a word with you, but
4 in fact what you were saying was that you were refusing
5 to meet with him without your solicitors present,
6 weren't you?
7 A. Where does it say that, sorry?
8 Q. If you look at 341, towards the bottom. The second hole
9 punch.
10 A. Okay, yes.
11 Q. "Let's make this clear, we are not having a meeting with
12 you on this subject. Any such meeting will be at the
13 offices of our solicitors. The meeting is not
14 an option."
15 A. Mmm hmm.
16 Q. So he was trying to have an informal chat with you about
17 it and the response was: no, we are not going to meet
18 other than with our solicitors, correct?
19 A. Correct.
20 Q. And it was on that basis that he convened the business
21 review meeting, correct?
22 A. That is correct. On that basis, you see, this was, you
23 know, he was sort of accusing Helle of taking money out
24 the business. He wasn't accusing me of taking money out
25 of the business, he was asking what the involvement was

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1 between Helle and Godfrey. And I agreed with her, you
2 know, she was saying: actually, I have not done anything
3 here. But why could he not phone me up and say:
4 actually Barry, as another partner, or a shareholder,
5 whatever way we want to look at it: as another partner,
6 what's going on here? Do I need to come down and
7 investigate this further. Do I need to say something?
8 I didn't get any of that. It is just email back and
9 forth and I have to stick with who I believe is my
10 business partner in the business, and that's what I did.
11 Q. The email he was writing was seeking a response. He was
12 seeking to find out what was going on. The problem was
13 that the explanation provided was partial and
14 inaccurate, wasn't it?
15 A. No.
16 Q. If you go please to 363. You see he identifies 1, 2,
17 and 3 of the issues he wants to address at the meeting:
18 "The use of Optimisation Healthcare Group as
19 a supplier."
20 A. Mmm hmm.
21 Q. "The deterioration and potential breakdown of the
22 relationship."
23 A. Mmm hmm.
24 Q. And "The tone of communications."
25 A. Yes.

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1 Q. He also makes clear -- he indicates that it is not
2 appropriate to have it at your solicitors' office, not
3 appropriate or necessary. He says it is not going to
4 facilitate the improvement of the business relationship.
5 A. Yes.
6 Q. He is not accusing anyone of being a thief, is he,
7 because he says at the bottom of the page:
8 "I am certain that when we meet we will be able to
9 resolve these three key issues and we can move forward
10 in a positive and constructive manner."
11 He is not accusing anyone of being a thief in that
12 letter, is he?
13 A. No, but he is not really saying anything is he? He is
14 not either way. To be honest, it is just a letter
15 saying: oh look, this could be all -- you know -- just
16 a standard letter. It doesn't say "yes" and it doesn't
17 say "no", does it?
18 Q. If we go forward please to 365. He deals here, he says:
19 "The objective was to ensure the future success of
20 the business and the working relationship."
21 You see that in the first hole punch, don't you?
22 A. Yes.
23 Q. Then there was a discussion about Optimisation
24 Healthcare Group business.
25 A. Yes.

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1 Q. Then there was an explanation about the concerns.
2 A. Yes.
3 Q. The process being unusual, not new in practice.
4 A. Yes.
5 Q. "Discussed no perks to the JVPs ..."
6 This is Dr Poulson. Yes?
7 A. Sorry?
8 Q. Just in the middle of the page:
9 "HO discusses no perks."
10 A. Okay.
11 Q. "Stresses that no other stores uses this process."
12 This is Mr Rowe. There is a reference to it being
13 a concierge and so on. He assures you there's no hidden
14 agenda. Then, on Optimisation, over the page,
15 an explanation was given for the first time and it
16 certainly hadn't been given in correspondence before
17 about the role of Mr Vos.
18 A. Where are we?
19 Q. Just about a quarter of the way down:
20 "HO explains ..."
21 Then there is a reference to a pre-written letter
22 with regards to Mr Vos' role. Do you remember that that
23 she read out? "HO recites".
24 A. Okay, yes.
25 Q. Do you remember that?

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1 A. Yes.
2 Q. Obviously that letter was prepared in advance?
3 A. Yes.
4 Q. Who prepared it?
5 A. It would have been all three of us.
6 Q. Who wrote it?
7 A. Godfrey.
8 Q. It wasn't handed over at the meeting, was it?
9 A. No.
10 Q. So you were obviously aware in advance of the meeting
11 that the role of Mr Vos, not the reimbursement of
12 expenses, was an issue to be discussed at the meeting or
13 perhaps as well as that, perhaps, but certainly the role
14 of Mr Vos was an issue at the meeting, correct?
15 A. (Pause). That we --
16 Q. Well, you were aware that the role of Mr Vos was
17 obviously going to be an issue at the meeting because
18 you prepared a letter in advance to explain?
19 A. A letter to explain his -- yeah. We believed that that
20 may come up, yes.
21 Q. And she refused to give a copy of this to Mr Rowe, is
22 that right, of the letter?
23 A. That is correct, yes.
24 Q. Why was that?
25 A. Because she said it was for her copy and that she would

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1 want -- you know -- we asked for the minutes and then
2 once we had the minutes we would give him a copy of that
3 letter. Also I state here as well:
4 "PW states that he would like to have more support
5 from SOG when it is offered and not followed and
6 therefore feels let down by the Group."
7 You see I'm saying there, you know, why were we not
8 phoning; why are we not communicating? Why do we have
9 to go through the areas of e-mails and letters here,
10 there and everywhere and half the time there would be
11 calls to Helle and not myself. I was asking for help.
12 Q. Indeed there was a concern expressed about the tone of
13 communications, wasn't there, because Mr Vos was writing
14 your e-mails and there was a concern that the tone of
15 them wasn't very conducive to the relationship?
16 A. Exactly, yes.
17 Q. Yes. You accept that?
18 A. Yes.
19 Q. And there was a discussion about a £1,900 invoice, yes?
20 A. Yes.
21 Q. Do you see that? And that is a reference to the
22 provision of Mr Vos' services; nothing to do with
23 facilitation or reimbursement of expenses?
24 A. Yes.
25 Q. You accept that what was being discussed at the meeting,

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1 amongst other matters, was the extent of the amounts of
2 monies that Mr Vos was invoicing the company through
3 Optimisation; correct?
4 A. As well as other matters, there were invoices that were
5 raised, yes.
6 Q. And in fact what was agreed was that Mr Vos, if he
7 wanted to render services, would do so not as
8 a consultant but through employment?
9 A. No. It was not agreed. Helle said -- she was quite
10 frustrated by the end of the meeting and she come out of
11 there and she did say to him, at the time, she said, we
12 would talk to him about it and we'll think about that
13 and get back to you; were her words. She never for one
14 moment said, yes, we'll get him put onto the payroll.
15 She didn't say that. Then, when she came out of the
16 meeting, obviously Mike Rowe left, and she said: I feel
17 like I have been made to look like a crook. Her words.
18 Then Godfrey said, let's talk about it, and he said
19 "I'm not willing to go on the payroll", and it was
20 pretty much decided, pretty much, quite soon after
21 the meeting.
22 Q. If you go over the page to 367, this point about
23 "crooks". I meant to say that:
24 "HO stated that MR is making out that the partners
25 are crooks."

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1 Correct? So it wasn't Mr Rowe who said "you are
 2 crooks." It was in fact:
 3 "This was a point raised by Dr Poulson and in fact
 4 he [Mr Rowe] ensures [I think that is probably
 5 'assures'] that that is not the case."
 6 A. But that is correct. She was made to feel like she was
 7 a crook. In that meeting, it took place that she was
 8 made to feel like she had done something really terrible
 9 and wrong and it is almost like a divide and side rule.
 10 You know, they were saying: do you really know what's
 11 going on, Barry? Do you really know what's going on
 12 with this company? Do you realise how much money is
 13 going out? And the answer was, yes, I did. But the way
 14 they interrogated or Mike interrogated -- obviously you
 15 have got minutes here, but it doesn't explain the time
 16 of the meeting when they actually really pulled her
 17 apart a bit and made her feel dreadful and as a partner
 18 in a business, it is not what you like to see to the
 19 person you are working closely with, and as her -- or
 20 another shareholder, it should be conducted in a much
 21 nicer way, like a phone call. All these e-mails and
 22 everything, for me, I just think it is a bit too far.
 23 Q. But you accept that the reference to "crooks" came from
 24 Dr Poulson and not from Mr Rowe in the first place,
 25 correct?

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1 A. It came from Dr Poulson because she was made to feel
 2 like a crook.
 3 Q. It was also the case that Mr Rowe assured her that that
 4 was not the case. He was not accusing her of being
 5 a crook?
 6 A. After pretty much saying she was, yes, he then took it
 7 back.
 8 Q. Now, if there had been any doubts about the matters for
 9 discussion at the meeting, 371 was the letter that
 10 followed up.
 11 A. I have got 372.
 12 Q. 372?
 13 A. I'm just trying to get there. There is a lot of 372's.
 14 Q. Now, this letter made clear that if Mr Vos' services --
 15 A. Hold on, can I just read the letter?
 16 Q. Yes, of course.
 17 A. Sorry. (Pause). Okay, sorry.
 18 Q. If you had any doubt about this, this letter made it
 19 clear that if Mr Vos' services were going to be engaged,
 20 they should only be done on the basis of him being on
 21 the payroll, weren't they?
 22 A. It doesn't say: you will meet Godfrey and arrange for
 23 him to be employed in the practice. But we never
 24 discussed that and, secondly, I didn't actually see this
 25 letter.

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1 Q. Sorry, you didn't see this letter?
 2 A. There was only one letter come through the practice and
 3 we may have discussed this and sat down and probably
 4 said, oh, they want us to do this, stop using
 5 Optimisation. So we stopped using Optimisation. And
 6 then it says there -- but we never discussed putting him
 7 on the payroll. We said we would talk to him about it.
 8 Actually I didn't, Helle did.
 9 Q. Let's just break that down. The first point is that at
 10 the meeting you discussed all aspects of Optimisation's
 11 charging, correct?
 12 A. We discussed a few.
 13 Q. Well, the two large areas, one is, if you like,
 14 the concierge service, the reimbursement of expenses.
 15 A. Yes.
 16 Q. And the much larger area of charging was actually for
 17 Mr Vos' services and you discussed both at the meeting,
 18 correct? Yes or no?
 19 A. I can't recall.
 20 Q. Okay. Well let me take you back if it helps you. If
 21 you go back to 366.
 22 "Now, we had a discussion at the meeting -- there
 23 was a discussion at the meeting about the role of
 24 Mr Vos. That is the provision of his services; correct?
 25 A. Mmm hmm.

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1 Q. Not concierge services but his services; correct?
 2 A. Yes.
 3 Q. There was the pre-arranged letter?
 4 A. Yes. The concierge and then the bill -- yes, we did
 5 discuss that.
 6 Q. The 1,900 invoice is for his services?
 7 A. Yes.
 8 Q. And the reference -- the point being that if you are
 9 going to get his services, it should be employed not
 10 outsourced?
 11 A. To talk to him about being employed.
 12 Q. Well, what was made clear is that you would stop using
 13 optimisation, ie stop using his service companies?
 14 A. We did.
 15 Q. And also the action list in the letter was to arrange
 16 for him to go onto the payroll?
 17 A. My understanding was that we would talk to him about
 18 going on the payroll. He didn't want to go on
 19 the payroll because he said it would be too expensive
 20 for you. We carried on in the way we were and we
 21 weren't being troubled again on it, so why did we need
 22 to bring it to our attention again? As far as we were
 23 concerned, we changed from Optimisation to Godfrey Vos
 24 FASA and all that. So it was all dealt with in a manner
 25 which I thought was fine.

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1 Q. But at the time you could have been under no
2 misapprehension that SOG's position was that if Mr Vos'
3 services were to be provided they should not be done
4 through his company, Optimisation, but as an employee;
5 correct?
6 A. That's what they asked us to discuss with Godfrey, about
7 going on to the payroll, they said that would be for
8 the best. But they didn't say we had to do it and they
9 didn't say to do it. Although this letter clearly
10 states that it does, we didn't ever give that opinion
11 that we were going to do that.
12 Q. Can we turn to paragraph 32 of your witness statement,
13 please.
14 A. I'm on it.
15 Q. Okay.
16 "It was only at Specsavers' insistence by Mr Rowe on
17 18 April 2008 at a business review meeting which
18 Specsavers had called that we eventually put Mr Vos on
19 an employment contract in mid-2009."
20 A. Yes.
21 Q. So you plainly understood that what they were requiring
22 was for you to stop using service companies for him and
23 to put him on the payroll?
24 A. That's from the minutes of the meeting that we received
25 in the 2009, when we went to Derek Dyson, that we had

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1 been asking for over a year.
2 Q. That's not what it says here, in paragraph 32 --
3 A. 2009.
4 Q. -- assistance on 18 April 2008?
5 A. It doesn't -- yes, the meeting was 2008, we didn't get
6 the minutes until 2009 and that's when we made
7 the decision.
8 Q. Mr Weller, you were at the meeting in April 2008?
9 A. I was, yes.
10 Q. The insistence was made at the meeting, correct?
11 A. The insistence was made at the meeting from Mr Rowe's
12 point of view and in this letter, yes, it was, but we
13 did not make that insistence. We said we would talk to
14 Godfrey about it. Then, when you look at it, we got
15 the minutes through to the meeting -- at the time as
16 well I was having health issues -- and so it all rolled
17 up that, yes, let's go with Mr Rowe. I didn't need
18 another backlash, I didn't need any more hassle, I just
19 wanted to get it all sorted.
20 Q. Let's break that down. The point is that at the meeting
21 in April 2008 they were insisting, correct?
22 A. He wasn't insisting, no. I refuse to say yes to that
23 because he wasn't. In the letter he says yes, but he
24 was -- the way you read -- at Mike Rowe's insistence --
25 obviously it appeared again in 2009 -- we let it go for

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1 a year because we didn't get any more assistance or
2 insistence that we put him onto the payroll, until 2009,
3 when we went to the Derek Dyson meeting, we got
4 the minutes of the meeting. Then we had the Jena Laker
5 complaint. Obviously I was suffering from all
6 the goings on and the shenanigans that were going on,
7 and I thought, actually, you know what, we better -- if
8 they are going to insist on it, let's do it.
9 Q. But you accept that the insistence was there in the
10 letter of 20th May, which Dr Poulson accepted that she
11 received?
12 A. Yes it does say that.
13 Q. And that was discussed with you at the time?
14 A. It was discussed that we would stop using Optimisation
15 and we would go down a different way of invoicing
16 Godfrey. Godfrey invoicing us, sorry.
17 Q. You didn't say at the meeting with Mr Rowe that SOG had
18 agreed to Mr Vos providing services to support you at
19 some earlier stage, did you?
20 A. Sorry, what's the question?
21 Q. At the meeting at the BRM you didn't seek to justify
22 Mr Vos' charges by reference to some prior agreement
23 with Specsavers, that he was going to be in a supporting
24 role to you?
25 A. He didn't ask me.

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1 Q. I'm sorry?
2 A. He didn't ask me the question. He was asking Dr Poulson
3 the questions.
4 Q. You were at the meeting?
5 A. I was at the meeting, yeah, exactly --
6 Q. You could speak for yourself, couldn't you?
7 A. Well, he didn't ask me. If you look at the minutes
8 there's not much replies from myself, is there? He
9 didn't actually ask me, if that's what I'm saying,
10 that's my basis of it all, why not just ask me?
11 Q. He had asked you for an explanation by emails in
12 advance; you were at a meeting with him; if you thought
13 Specsavers were out of order in relation to intervening
14 on this issue, this was the perfect opportunity to tell
15 him that, wasn't it?
16 A. Like I said, I didn't think he was out of order, but he
17 could have just picked up the phone and said: hi Barry,
18 how are you?
19 This is meant to be a nice business relationship, we
20 are meant to have good communication, there is a
21 breakdown of communications. I did say in those
22 meetings I felt a bit let down by SOG. They weren't
23 communicating in the manner I felt appropriate. If they
24 had just picked up the phone and said: what's going on
25 Barry? I would have answered. That is how I dealt with

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1 it. Before I became a director, being a manager,
 2 the only people you deal with are your directors at the
 3 store and half the time you would hear there, in
 4 the olden days -- I've been with the company for 20
 5 years -- quite often or not just picking up the phone
 6 and speaking to -- Adrian Deane was a really lovely guy,
 7 always pick up the phone and go hi Barry, how is this
 8 going? Even when I was at the Worthing store. I just
 9 don't understand why always it is that if you do
 10 something wrong or if you are not sure on something,
 11 they come and hit at you and they go, "we are going to
 12 escalate this", and then you feel frightened to do
 13 anything and so, yeah, we did have the back-board of
 14 Godfrey and his articulate letters and the way that --
 15 we would never be able to envision writing those
 16 letters, but it's what we wanted to say. But we was
 17 always shut up to make sure that if you do this, if you
 18 don't do this, then we are going to escalate it, you are
 19 going to go there -- have this charge thrown at you,
 20 have that charge thrown at you. And when you've got
 21 loans and debts and everything, you just want to get on
 22 and earn the money. You don't want to be arguing over
 23 letters and e-mails and everything. But, yes, we did
 24 have Godfrey to do that and, yes, he did do that and
 25 I stand by everything he has done.

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1 Q. Just to go back to the question I actually asked. You
 2 were in a meeting with Mr Rowe and you didn't take
 3 the opportunity to say: actually, no, this is -- you are
 4 being out of order, you agreed to Mr Vos providing this
 5 support to me in the past, that was agreed in the past.
 6 There's nothing like that in the discussion at all, was
 7 there?

8 A. No.

9 Q. The reason why you didn't raise it with Mr Rowe is there
 10 was no such conversation or agreement?

11 A. There was, yes.

12 Q. If there had been, you would have said so in the meeting
 13 wouldn't you or in the correspondence earlier?

14 A. Why would I say it is in there when quite clearly, from
 15 the outside, from my understanding was that when I took
 16 on the joint venture partnership with Dr Poulson I was
 17 under the impression that they knew that Godfrey was
 18 involved within the company and I was under that
 19 impression at the meeting also. I was always given
 20 the impression that Specsavers -- it was clear and
 21 transparent that they knew Godfrey's involvement within
 22 the company.

23 Q. Can we move on to the dual company VAT structure.

24 A. Have we finished with any of these ones --

25 Q. You say you were under the impression. Who gave you

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1 this impression? Mr Rowe's email doesn't give you
 2 the impression that he was aware of it, does it?

3 A. No it doesn't. I spoke to Mike Ryan, when I first took
 4 over the shares and he told me that he'd never had a
 5 shares transfer gone through so quickly and that I was
 6 in safe hands with Godfrey Vos because he certainly
 7 knows how to put through a sale quick.

8 Q. Right. So move on to the VAT. Paragraph 46. You say
 9 the problems began in 2007 over the unexpected hit of
 10 VAT problem; yes?

11 A. Yes.

12 Q. Now you were in court when I explored the dual company
 13 structure with Dr Poulson. Do you remember?

14 A. Yes.

15 Q. So that structure enabled the Bognor business to recover
 16 more VAT than a single store company would, correct?

17 A. Correct.

18 Q. So the additional money would belong to the Bognor
 19 business, to the Bognor companies?

20 A. Correct.

21 Q. That would mean, in terms, that the business would have
 22 a larger profit because of a reduced VAT liability?

23 A. Way above my head, so I take your word on that.

24 Q. Profits, of course, were the way you got your bonuses
 25 and distributions?

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1 A. Exactly, yes.

2 Q. So the VAT structure was entirely for your benefit, for
 3 the stores' benefit, it was not for SOG's benefit, was
 4 it?

5 A. I can't answer that because I wouldn't know. I'm not
 6 a tax expert, all I know is that we didn't take
 7 the practice over until 2005 and I was charged tax from
 8 2004. So that wasn't even my money. So why -- I was
 9 losing a year's worth of tax on Marcus Halsey's profit,
 10 so I had literally given it away to him. That's what I
 11 couldn't understand. I don't think that was fair.
 12 I don't think that I should have had to pay back
 13 the remains of a year before I even started as a JVP in
 14 the company.

15 Q. I do not think that's right, Mr Weller, but I will come
 16 back to that perhaps at a later point. You say that
 17 the amount which the store was liable really affected
 18 you financially?

19 A. It did.

20 Q. Now, the store's liability was £39,900 odd?

21 A. Correct.

22 Q. And there was a letter from Jill Morris on 16th October,
 23 notifying you of that. Do you remember that? I can
 24 show you the letter if it would help.

25 A. What date, sorry?

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1 Q. October 2009. Now, that was in fact about roughly half
2 the amount which had been set aside in your VAT reserve
3 account, do you remember that?
4 A. I do and that money, that 75,000, started coming out of
5 our account from 2007. That's off of our profits. That
6 was out of my money which I needed to pay my loans back
7 with and so that is what I was getting at when I was put
8 under financial pressure because each month that we made
9 money, they were putting money aside for this tax
10 arrangement that I hadn't had anything to do with;
11 I didn't start in Bognor Regis until 2005; as far as
12 I was concerned, I trusted within Specsavers and
13 I couldn't understand why it was me and Helle that was
14 having to pay back this money and for a year I wasn't
15 even in the store and it wasn't even my store.
16 Q. In fact what happened then was that the monies were paid
17 back. So in fact 35,000 was needed, so almost 40,000
18 was paid back into the current account in October --
19 A. 39,000.
20 Q. 39,951.
21 A. The other way round.
22 Q. I have got it the wrong way round, have I?
23 A. Yeah and how much money --
24 Q. Yes. You are quite right --
25 A. Sorry. You have to remember, Mr Potts, that this was

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1 over the course of two or three years that they have
2 taken the money out to build that reserve fund up to pay
3 this fine, and we didn't find out until 2009 how much
4 money was going out. For all we knew at the time -- we
5 were getting bulletins on this update, that update and
6 then it was all fantastic, we have got a deal with HMRC,
7 they have not taken it completely off and we have
8 settled for X amount of millions of pounds. However,
9 until that point, I didn't even know if it was going to
10 be more than £75,000 and that was going to cost me even
11 more. So the worry and anxiety of all this going on and
12 them taking the bottom line -- my profits into
13 the reserve account -- okay, I got £35,000 back in 2009,
14 but at the time in 2007 that's really stressful.
15 Q. So two points happened. Firstly, you weren't having to
16 make any ad hoc contributions to the account any more as
17 a result of this settlement; correct?
18 A. In 2009.
19 Q. And, secondly, in fact the liability was significantly
20 less than the amount which had been set aside by way of
21 reserve?
22 A. Yes, correct.
23 Q. In fact, HMRC did accept the dual company's (inaudible)
24 was valid, wasn't it? So going forward you still got to
25 continue the benefit of that structure and

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1 the additional --
2 A. It wasn't a benefit but it changed from my recollection.
3 Q. But it was a benefit which you continued to enjoy going
4 forward?
5 A. From 2009?
6 Q. Yes, and it was the benefit which you had also been
7 continuing to enjoy since the time you joined the store?
8 A. No because it is was not the same benefit, was it.
9 Q. The levels were changed to some extent but you were
10 still better off than if it had been a single --
11 A. It wasn't much better off, no.
12 Q. You were better off?
13 A. I don't know. I can't answer that, I'm not
14 an accountant.
15 Q. Finally on the subject, I explored with Dr Poulson
16 the allegation that the scheme had been struck down.
17 She did accept that it hadn't been struck down. Do you
18 accept that as well?
19 A. Sorry?
20 Q. She accepted that the VAT scheme was not struck down, do
21 you accept that the scheme was not struck down?
22 A. That's her -- where do I say that it was struck down?
23 Q. I was just asking you whether you accept the same point
24 that it wasn't struck down?
25 A. Sorry, Mr Potts, I don't understand the question.

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1 Q. She asserted initially that the scheme was struck down.
2 A. But in what way was it struck down?
3 Q. By the Revenue or is that something you can't help me
4 on?
5 A. Sorry, I don't understand -- I believe they changed it
6 but struck down. That original one was struck down and
7 then they put in place the new concept, which had
8 different figures. That's my taking on it.
9 Q. Okay. She also referred to the idea about being subject
10 to fines. Could you turn up E3, 598. This is
11 the letter I think you referred to about the reference
12 to the -- when you were told about the amounts payable
13 and what was going to happen with the balance of the
14 reserve. Do you remember that? I'm only going to ask
15 you a short question on this Mr Weller. The point is
16 that the letter, whilst it refers to some interest being
17 payable, there is no reference -- there were no fines
18 levied, were they? They were not referred to here?
19 A. I do not understand what you are trying to get at
20 Mr Potts, sorry.
21 Q. This letter is setting out the consequences in relation
22 to the arrangements reached with the Revenue and what
23 was going to happen onto your VAT account. Now
24 Dr Poulson suggested that there were fines levied as
25 a result of what had happened.

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1 Now, this letter sets out -- from Jill Morris -- was
 2 is to happen. It refers to the settlement and it talks
 3 about some interest. It does not talk about
 4 the store/company being liable for any fines, does it?
 5 A. Well, the interest is a fine in itself.
 6 Q. No it is not. They are different matters. There is no
 7 reference to fines in the letter, are there?
 8 MR STUART: My Lord, I hesitate to interrupt, but asking
 9 this witness about something that another witness said
 10 and in a way going over and over it as if to say, well,
 11 you are not accepting it. This witness didn't say
 12 "fines". If you point to a section in this witness's
 13 witness statement where he mentions fines and then ask
 14 him about it, that would seem a fair question. But to
 15 ask this witness what another witness said --
 16 MR JUSTICE HILDYARD: There's something in that. Mr Potts
 17 we just don't know what the 15 million represented
 18 anyway, do we? It might have included a fine.
 19 MR POTTS: It does refer to class interest, my Lord. I will
 20 leave the point there. My Lord, I'm going to go on to
 21 another issue, I don't know whether your Lordship wants
 22 to break now? It is a new, longer issue.
 23 MR JUSTICE HILDYARD: If this is a convenient moment I'm
 24 happy to break now.
 25 MR POTTS: I think it is, my Lord.

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1 MR JUSTICE HILDYARD: Mr Weller, I'm afraid your
 2 cross-examination will continue tomorrow and you mustn't
 3 talk about this case to anybody at all, even if it will
 4 be swimming around in your mind.
 5 Tomorrow morning I have another matter to deal with
 6 at 9.30. I'm confident as ever, though not absolutely
 7 certain, that it will be dealt with by 10.30 but I will
 8 mark you as not before 10.30 because I do think it
 9 should be done within that time.
 10 MR STUART: My Lord, could I mention one thing? I did
 11 mention it to my learned friend just before Mr Weller
 12 came to the box. We are slipping slightly in
 13 the timetable and I was due to call Mrs Birdi next and
 14 then Mrs Parham -- I'm sorry -- I was due to call
 15 I think it was Mr Yogaratnam then Birdi or Parham, then
 16 Rosier.
 17 The point is this, my Lord, Mr Yogaratnam and
 18 Ms Rosier are two people who -- they are just witnesses
 19 being called, they are not attending every day, as it
 20 were. They work for somebody else. They are just
 21 employees. I have already had to put them off and ask
 22 them to re-arrange the day they were taking off work to
 23 come tomorrow and so I'm going to call them slightly out
 24 of the order in that I said previously I would call them
 25 after Mr Weller is finished, which I hope is sometime

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1 tomorrow afternoon.
 2 MR JUSTICE HILDYARD: Have you warned Mr Potts, of this?
 3 MR STUART: I have warned him.
 4 MR JUSTICE HILDYARD: So it is really for my reading?
 5 MR STUART: It is, my Lord, exactly. I wanted you not to
 6 just have read -- thinking it was only Ms Birdi coming
 7 up and then we come onto two witnesses --
 8 MR JUSTICE HILDYARD: That's very kind. So should I read
 9 Mr Yogaratnam and Ms Rosier?
 10 MR STUART: Yes, please.
 11 MR POTTS: Can I get the batting order for the remaining
 12 witnesses. It is Yogaratnam, Rosier.
 13 MR STUART: Then Birdi and then Parham.
 14 MR POTTS: Just in relation to the witnesses' convenience,
 15 those two, obviously I will do my best. Some of the
 16 answers, it is not a criticism of course, but some of
 17 the answers are really quite long. I can't guarantee
 18 that I will finish and also allowing time for
 19 re-examination. Obviously, I will do my best, but
 20 I can't guarantee that we will finish all of that and
 21 certainly be able to cover the two of them tomorrow.
 22 MR JUSTICE HILDYARD: I understand that. Mr Stuart, I mean
 23 there's fair warning. Will they be available if needs
 24 be or at least one of them available on the next day
 25 with apologies?

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1 MR STUART: That's what I'm going to go off now and get my
 2 solicitors to phone them straightaway.
 3 MR POTTS: Another alternative, to have certainty, is that
 4 we deal with them not tomorrow because, on any basis,
 5 I think I'm going to be certainly most of the day with
 6 Mr Weller and there's re-examination; so actually to
 7 start with them on the following day, so they don't have
 8 a wasted journey to court.
 9 MR JUSTICE HILDYARD: What I'm going to do is encourage you
 10 two to discuss together what is the most efficient way
 11 of doing this. Obviously it is a pity if people set
 12 aside a day and it is a wasted one, except for
 13 a breathless half hour at the end. So I will leave it
 14 to your good sense and discussion. If you could let me
 15 know what you have agreed, so that I properly focus my
 16 reading and know what's coming, I should be flexible,
 17 provided you are both in agreement with it.
 18 MR POTTS: My sense my Lord is, indeed on the timetable, was
 19 really a final canter through in half a day of the final
 20 small witnesses, was what we provided for, and that
 21 I think still would be the most sensible, but I will
 22 discuss it with my friend.
 23 MR JUSTICE HILDYARD: Sometimes things turn out a little bit
 24 differently than you immediately envisage and I will be
 25 flexible with that.

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1 MR POTTS: My Lord, there is one further point.
 2 Your Lordship raised on Friday an issue about
 3 the Optimisation and Finestone invoices. You said not
 4 for now but at some point. I don't know if
 5 your Lordship even remembers, in the mists of the
 6 weekend, as to their relevance as to the investigation.
 7 It may be my Lord that that is a matter which is more
 8 appropriately dealt with after the witnesses.
 9 MR JUSTICE HILDYARD: My thought and you are right that
 10 I think that it will have to be elaborated on later is
 11 that you placed at the forefront of the legal
 12 submissions that the test was not whether there had been
 13 dishonesty in fact, but whether there was a perception
 14 of it recently entertained and set out in the report.
 15 On that footing some of this questioning does not
 16 really back-up what you said was the main case, which
 17 really is a question of what was investigated at the
 18 time.
 19 MR STUART: Well, my Lord, I can deal with it very briefly.
 20 My submissions were based on -- the question was
 21 actually at the time of the exercise of the option, is
 22 the issue.
 23 MR JUSTICE HILDYARD: Yes.
 24 MR POTTS: We say that it is an exercise into the state of
 25 mind of SOG at that time and that's largely Mr Dyson, as

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1 informed by other people. Now, it is correct that
 2 the investigation report submitted dealt with payments
 3 to Mr Vos since he was an employee, but that was not
 4 the only background because the initial investigation in
 5 February, which led to that report -- and for
 6 your Lordship's note perhaps that is at E3, 803 -- in
 7 addition to highlighting the remuneration levels of
 8 Mr Vos since June 2009, it also noted the previous
 9 history of payments to Optimisation Healthcare prior to
 10 his employment; it also dealt with the position of
 11 Dr Poulson and Mr Vos in that company; the use of Mr Vos
 12 as the trading name of that company, all of those
 13 matters were highlighted, and indeed the invoices to
 14 Finestone in the run up to 2009 as well, of which Mr Vos
 15 was a director and also the highlighted payments to
 16 Mr Ferguson.
 17 So, in those circumstances, the payments to
 18 Optimisation and Finestone form part of the background
 19 to the investigative report itself and Mr Dyson was
 20 therefore aware not just of the payments post-2009, but
 21 also the payments pre-2009, the very large payments to
 22 those (inaudible) companies. So, in a sense, making his
 23 assessment that is a matter which was before him as
 24 well. So whilst it is not the subject matter of
 25 the investigatory report, the later report -- firstly,

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1 it was an issue which is highlighted which flags up
 2 the issue as to why it should be investigated in the
 3 first place and, secondly, it therefore colours his
 4 assessment as to the explanation that, effectively,
 5 there is a long pattern of very large payments.
 6 MR JUSTICE HILDYARD: I shall say as little as possible with
 7 regard to that and I fully appreciate that the question
 8 of what formed the background and the conclusions in
 9 the investigation will be matters largely to be tested
 10 with your witnesses rather than these witnesses.
 11 I fully understand that.
 12 I will say very little except to explain that my
 13 concerns are to ensure that your case is tested in
 14 accordance with the test you promoted so far as your
 15 position is concerned. So I will need assistance at the
 16 end of the day, not now, at the end of the day to see
 17 how it all fits in in that context.
 18 MR POTTS: My Lord, the other point I would make by way of a
 19 final point on this is that, quite apart from that
 20 issue, these are matters which are raised fully and
 21 extensively by the claimants in their witness statements
 22 and I am entitled, with respect to your Lordship, to
 23 cross-examine in relation to credit and they are matters
 24 of general relevance to all the issues in the case by
 25 way of reference to credit, my Lord.

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1 MR JUSTICE HILDYARD: That I don't dispute, but I imagine
 2 that there was some purpose in the legal debate that we
 3 had and quite what the purpose was will need to be
 4 explained more fully once the evidence is complete.
 5 MR POTTS: My Lord, I take that point.
 6 MR JUSTICE HILDYARD: All right. Well not before 10.30
 7 tomorrow. I'm sorry about that.

(4.30 pm)

(The court adjourned until 10.30 am
on Tuesday, 10 December 2013)

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